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Executive Orders

EXECUTIVE ORDER BJ 11-07

Executive Branch—Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 11 of the 2010 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of State government (hereafter "expenditure freeze"); and

WHEREAS, underlying assumptions and needs in the development of the current year's state budget will be drastically altered by the projected decline in the State's revenues and the interests of the citizens of our State are best served by implementing fiscal management practices to ensure that appropriations will not exceed actual revenues; and

WHEREAS, in preparation of the budget challenges in the ensuing year, Executive Order BJ 2010-12 Limited Hiring Freeze issued on July 1, 2010, and Executive Order BJ 2011-6 Personal Services Expenditure Freeze issued on April 8, 2011, and are updated periodically, are related to the Expenditure Category of Personal Services, therefore Personal Services Expenditures will not be addressed in this Executive Order; and

WHEREAS, to ensure that the State of Louisiana will not suffer a budget deficit due to fiscal year 2010-2011 appropriations exceeding actual revenues and that the budget challenges in the ensuing fiscal year are met, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure freeze throughout the executive branch of state government;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana as described in and/or funded by appropriations through Acts 11 and 41 of the 2010 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze expenditures as provided in this Executive Order.

SECTION 2: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempted by a provision of this Order or with the express written approval of the Commissioner of Administration; shall make any expenditure of funds related to the Expenditure Categories of Travel, Operating Services, Supplies, Professional Services, Other Charges, Interagency Transfers, Acquisitions, and Major Repairs.

SECTION 3:

A. The budget activities funded by the Acts which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to declared emergencies, including hurricane recovery and rebuilding efforts; oil spill recovery efforts; and flood event protection, preparation, and recovery;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by the constitution, existing court orders, existing cooperative endeavor agreements, or existing bona fide obligations;

4. All contracts associated with the transformation of state government that lead to future savings;

5. All essential budget activities of statewide control agencies;

6. All essential budget activities directly required for collection of state revenues recognized by the Revenue Estimating Conference; and

7. All budget activities which are financed by Federal Funds directly.

B. Other budget activities funded by the Acts are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Essential field travel, and supplies for incarceration, rehabilitation, diagnostic and health services, transportation of offenders, and probation and parole services related to adult corrections as well as positions and field travel for the Pardon Board and Parole Board in the Department of Public Safety and Corrections, Corrections Services;

2. Essential field travel, and supplies for juvenile secure care facilities and the Field Services Program in the Department of Public Safety and Corrections, Youth Services;

3. Essential field travel and supplies related to direct patient care;

4. Essential State Police commissioned trooper expenses—not including personnel expenses—as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses—not including personnel expenses—as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses—not including personnel expenses—field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District #1, and Youth Challenge;

7. Essential expenses for the State Military Department - not including personnel expenses - associated with the deployment for backfilling for active duty national guardsmen, and installation management and force protection;

8. Essential expenses related to the housing of state adult and juvenile offenders in local correctional or detention facilities or work release programs.

C. The budget activities funded by the Acts which are exempt from the portion of the provisions of Section 2 of this Order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the state of Louisiana and/or its products by: a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service and the Louisiana Public Defender Board;

3. Essential field travel required for the Office of Legal Affairs, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators of the Office of the State Fire Marshal in the Department of Public Safety and Corrections, Public Safety Services;

4. Essential field travel for the Municipal Fire and Police Civil Service and the State Police Commission deemed to be essential;

5. Essential travel for the Board of Elementary and Secondary Education for board meetings;

6. Essential field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

D. The budget activities funded by the Acts which are exempt from the portions of the provisions of Section 2 of this Order that prohibits the expenditure of funds for supplies are as follows:

1. Essential expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than seventy-five (75) percent of the initial appropriation for supplies for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent for supplies expenditures;

2. Essential supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

3. Essential instructional supplies for post-secondary education;

4. Essential automotive supplies for travel excepted in Section 3.

SECTION 4: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 6: This Order is effective upon signature and shall remain in effect through June 30, 2011, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of May, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1105#029

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Establishing Eligibility (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking adds anatomy and physiology as an equivalent (substitute) course to the TOPS core curriculum advanced science courses effective for students graduating during the 2010-2011 high school academic year and thereafter. The Board of Elementary and Secondary Education and the Board of Regents have recommended this change.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance to effectively administer the programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible candidates. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected recipients.

This Declaration of Emergency is effective April 26, 2011, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11132E)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.ii.(b).

(c). For students graduating in academic year (high school) 2009-2010, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III

Core Curriculum Course	Equivalent (Substitute) Course
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math – Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math – Functions and Statistics was formerly referred to as Advanced Mathematics II	

(d). For students graduating in academic year (high school) 2010-2011 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit;	Anatomy and Physiology
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math – Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math – Functions and Statistics was formerly referred to as Advanced Mathematics II	

A.5.a.iii - J.4.b.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:

George Badge Eldredge
General Counsel

1105#007

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Student Financial Assistance Commission Bylaws
(LAC 28:V.107 and 109)

The Louisiana Student Financial Assistance Commission (the "Commission") is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking amends the commission's bylaws to include a public comment period at all meetings; to provide for the order of business; to delete the current standing committees, except the executive committee; and to provide additional duties and responsibilities to the executive committee.

The Emergency Rule is necessary to allow the commission to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance to effectively administer the programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible candidates. The commission has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected recipients.

This Declaration of Emergency is effective April 26, 2011, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11130E)

Title 28 EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 1. Student Financial Assistance Commission Bylaws

§107. Order of Business

A. ...

B. Order of Business. The order of business of regular meetings of the commission shall be as follows, unless the rules are suspended by a simple majority vote of the quorum present:

1. call to order;
2. roll call;
3. introductions and announcements;
4. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequent thereto;
5. public comment;
6. program updates and special reports;
7. old business, including reports and recommendations of standing and special committees;
8. new business; and
9. adjournment.

C. Reference to Committees

1. In cases where the commission determines that it is feasible and desirable, it may refer any subject or measure to the executive committee or to a special committee.

2. The committee to which a matter is referred should submit to the commission its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

D. Meetings

1. Meetings shall be conducted in accordance with state law governing public bodies.

2. It is the policy of the commission for all meetings to be open to all who wish to attend and that the public shall be granted an opportunity to comment.

3. The commission may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the reasons specified in the Louisiana Open Meetings Law.

4. Prior to each regular meeting of the commission, the executive director, with approval of the chairman, shall prepare and forward to each member of the commission a tentative agenda for the meeting at least five working days prior to such regular meeting.

5. Upon request of three members of the commission made prior to the fifth day before the next commission meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda.

6. The commission may add any item to its agenda during a meeting upon a simple majority vote of the quorum present.

7. Each resolution shall be reduced to writing and presented to the commission before it is acted upon.

8. All official actions of the commission shall require a simple majority vote of the quorum present at the meeting.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 37:

§109. Committees

A. In addition to the executive committee established in these Bylaws, the commission may establish standing committees by the vote of a simple majority of the membership of the commission.

B.1. - E. ...

F. Executive Committee

1. The executive committee shall consist of seven members. The chairman and vice chairman of the commission shall serve in those capacities on the executive committee. The remaining persons, for a total of seven members, shall be appointed by the chairman of the commission from the other members of the commission.

2. The executive committee shall:

a. meet for and conduct the business of the commission in all instances that the public has been given notice of a meeting of the commission and the commission does not have a quorum at that meeting. In such cases, the actions of the committee shall have the same force and effect as if a quorum of the commission had taken the action;

b. consider such matters as shall be referred to it by the commission and shall execute such orders and resolutions as shall be assigned to it at any meeting of the commission;

c. in the event that an emergency requiring immediate commission action shall arise between commission meetings, meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the commission for ratification at the commission's next meeting.

3. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

4. The executive committee may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the reasons specified in the Louisiana Open Meetings Law.

G. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the commission, create special (ad hoc) committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint special committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:811 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:484 (March 2000), LR 27:35 (January 2001), LR 32:391 (March 2006), LR 37:

George Badge Eldredge
General Counsel

1105#006

DECLARATION OF EMERGENCY

**Tuition Trust Authority
Office of Student Financial Assistance**

Tuition Trust Authority Bylaws
(LAC 28:VII.107 and 109)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the

Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This rulemaking amends the Authority's bylaws to include a public comment period at all meetings; to provide for the order of business; to delete the current standing committees, except the executive committee; and to provide additional duties and responsibilities to the executive committee.

The Emergency Rule is necessary to allow LATTA to implement changes to the START Savings Program to allow the Louisiana Office of Student Financial Assistance to effectively administer the program. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective on April 26, 2011, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST11131E)

Title 28

EDUCATION

Part VII. Tuition Trust Authority

Chapter 1. Bylaws

§107. Order of Business

A. ...

B. Order of Business. The order of business of regular meetings of the authority shall be as follows, unless the rules are suspended by a simple majority of the quorum present:

1. call to order;
2. roll call;
3. introductions and announcements;
4. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequently thereto;
5. public comment;
6. program updates and special reports;
7. old business, including reports and recommendations of standing and special committees;
8. new business; and
9. adjournment.

C. Reference to Committees

1. In cases where the authority determines it is feasible and desirable, it may refer any subject or measure to the executive committee or to a special committee.

2. The committee to which a matter is referred should submit to the authority its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

D. Meetings

1. Meetings shall be conducted in accordance with state law governing public bodies.

2. It is the policy of the authority for all meetings to be open to all who wish to attend and that the public shall be granted an opportunity to comment.

3. The authority may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the exceptions specified in the Louisiana Open Meetings Law.

4. Prior to each regular meeting of the authority, the executive director, with approval of the chairman, shall prepare and forward to each member of the authority a

tentative agenda for the meeting at least five working days prior to such regular meeting.

5. Upon request of three members of the authority made prior to the 5th day before the authority's next meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda.

6. The authority may add any item to its agenda upon a simple majority vote of the quorum present.

7. Each proposal and/or resolution shall be reduced to writing and presented to the authority before it is acted upon.

8. All official actions of the authority shall require a simple majority vote of the quorum present at the meeting.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1654 (December 1997), amended LR 37:

§109. Committees

A. In addition to the executive committee established in these Bylaws, the authority may establish standing committees by simple vote of a majority of the membership of the authority.

B.1. - E. ...

F. Executive Committee

1. The executive committee shall consist of seven members.

2. The chairman and vice-chairman of the authority shall serve in those capacities on the executive committee.

3. The remaining members, for a total of seven members, shall be appointed by the chairman of the authority from the other members of the authority.

4. The executive committee shall:

a. meet for and conduct the business of the authority in all instances that the public has been given notice of a meeting of the authority and the authority does not have a quorum at that meeting. In such cases, the actions of the authority shall have the same force and effect as if a quorum of the authority had taken the action;

b. consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority;

c. in the event that an emergency requiring immediate authority action shall arise between authority meetings, meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

5. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

6. The executive committee may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the reasons specified in the Louisiana Open Meetings Law.

G. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special (ad hoc) committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint special committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001), LR 30:785 (April 2004), LR 32:392 (March 2006), LR 37:

George Badge Eldredge
General Counsel

1105#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Substance Abuse Services (LAC 50:XV.Chapter 93)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 93 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminated coverage and reimbursement of substance abuse clinic services under the Medicaid Program as a result of a budgetary shortfall (*Louisiana Register*, Volume 27, Number 1). However, in compliance with federal regulations governing coverage of discretionary services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, substance abuse services continued to be available to Medicaid recipients up to the age of 21 through the substance abuse clinics operated or funded by the Office for Addictive Disorders (OAD), now the Office of Behavioral Health (OBH).

The Department of Health and Hospitals, Bureau of Health Services Financing now proposes to promulgate the provisions governing the coverage and reimbursement of substance abuse services rendered to EPSDT recipients. This action is being taken to promote the health and welfare of Medicaid eligible recipients, up to the age 21, who are in need of substance abuse services, and to assure continued access to services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$6,681,303 for state fiscal year 2010-2011.

Effective April 22, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to provide Medicaid coverage of substance abuse services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis and Treatment

Chapter 93. Substance Abuse Services

§9301. General Provisions

A. The Medicaid Program shall provide coverage of substance abuse services rendered to Medicaid eligible recipients, under the age of 21.

B. Medicaid reimbursement for medically necessary substance abuse services shall only be provided to the Office of Behavioral Health for recipients under the age of 21.

C. Substance abuse services covered under the EPSDT Program shall include medically necessary clinic services and other medically necessary substance abuse services rendered to EPSDT recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9303. Reimbursement Methodology

A. The Medicaid Program shall provide reimbursement to the Office of Behavioral Health for substance abuse services rendered to EPSDT recipients.

B. Reimbursement for these services shall be based on the most recent actual cost to OBH. Cost data shall be derived from the department's ISIS reporting of costs for the period. The cost period shall be consistent with the state fiscal year. Costs are determined by selecting the expenditures paid from state and local funds for the state fiscal year.

C. OBH encounter data from their database shall be used to identify allowable services. Encounter data for recipients under the age of 21 shall be extracted and used in calculations to determine actual cost to OBH.

D. Costs shall be calculated by using the cost-weighted amount and include Medicaid eligibles under 21 database costs divided by total database costs times OBH's expenditures for the program which were derived from the state's ISIS data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1104#002

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Greater New Orleans Community Health Connection
Waiver (LAC 50:XXII.Chapters 61-69)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 61-69 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In July 2007, the Department of Health and Hospitals was awarded a \$100 million Primary Care Access Stabilization Grant (PCASG) from the Department of Health and Human Services, Centers for Medicare and Medicaid Services as a result of the disruption of primary health care service delivery in the greater New Orleans area due to Hurricanes Katrina and Rita. The PCASG was a three-year grant program designed to restore and expand access to primary care services, including behavioral health and dental services, without regard to a patient's ability to pay. The intent of the program was to restore and stabilize the provision of primary health care services in the New Orleans area by providing short-term financial relief to providers and to decrease reliance on costly emergency room services for patients who were uninsured, underinsured, or receiving Medicaid benefits. The PCASG program will end on September 30, 2010.

As a result of the termination of PCASG funds, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which implemented a demonstration program under the authority of a Section 1115 Waiver to ensure continued access to primary and behavioral health care services that were restored and expanded in the greater New Orleans area (*Louisiana Register*, Volume 36, Number 10). Under this demonstration waiver, the Medicaid Program will provide coverage for primary and behavioral health care services delivered to eligible residents in Jefferson, Orleans, Plaquemines and St. Bernard parishes who have family income up to 200 percent of the federal poverty level.

The department now proposes to amend the provisions of the October 1, 2010 Emergency Rule in order to establish provisions that will allow waiver recipients in the Family Planning Waiver and the GNOCHC to receive healthcare services through both waiver programs simultaneously. This action is being taken to protect the health and welfare of uninsured individuals in the greater New Orleans area by ensuring continued access to primary care services.

Effective May 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends provisions of the October 1, 2010 Emergency Rule governing the Greater New Orleans Community Health Connection Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 7. Greater New Orleans Community Health Connection Waiver

Chapter 61. General Provisions

§6101. Purpose

A. Upon approval from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department shall implement a Section 1115 demonstration waiver called the Greater New Orleans Community Health Connection (GNOCHC) Waiver to provide primary and behavioral health care services to eligible uninsured residents in the greater New Orleans area.

B. The intent of the GNOCHC Waiver is to preserve primary and behavioral health care access that was restored and expanded in the greater New Orleans area with Primary Care Access and Stabilization Grant (PCASG) funds awarded by CMS after Hurricanes Katrina and Rita. Implementation of this waiver program is expected to reduce reliance on costlier emergency room services to meet primary care needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6103. Program Design

A. The GNOCHC Waiver is designed to transition the PCASG medical home model to a financially sustainable model utilizing other funding resources over the long-term.

B. The waiver is a 39 month demonstration project which shall be implemented in two primary phases which span four fiscal years.

C. Phase one of the GNOCHC Waiver shall focus on preserving access to primary care services and developing a CMS approved plan for transitioning the funding of the demonstration project to long-term revenue sources. Phase two focuses on implementing the transition plan, assessment, and the demonstration project phase-down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 63. Eligibility

§6301. General Provisions

A. The targeted population for GNOCHC Waiver services shall be uninsured adults who live in the greater New Orleans area. For purposes of these provisions, the greater New Orleans area shall consist of the following parishes:

1. Jefferson;
2. Orleans;
3. Plaquemines; and
4. St. Bernard.

B. All applicants shall be pre-screened to determine possible eligibility for coverage in other Medicaid or Children's Health Insurance Programs (CHIP) prior to determining eligibility for GNOCHC Waiver services.

C. Retroactive coverage is not available in the GNOCHC Waiver program. The effective date of coverage for eligible recipients shall be the first day of the month in which the application for services was received.

D. At the department's discretion and upon CMS approval, the following measures may be taken to manage eligibility for these services to ensure that waiver expenditures do not exceed funding allocations. The department may:

1. employ a first come, first served reservation list to manage the number of applications received;
2. limit the number of applications provided to potential recipients; or
3. impose enrollment limits;

E. Waiver recipients shall undergo an eligibility redetermination at least once every 12 months. Each redetermination shall include an assessment of the individual's eligibility for coverage in other Medicaid or CHIP programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6303. Recipient Qualifications

A. GNOCHC Waiver services shall be provided to individuals who:

1. have been uninsured for at least 6 months;
2. are not pregnant;
3. are age 19 through 64 years old;
4. are not otherwise eligible for Medicaid, CHIP or Medicare coverage;
5. are a resident of any one of the parishes in the greater New Orleans area as defined in §6301.A;
6. have family income up to 200 percent of the federal poverty level; and
7. meet citizenship requirements under the Deficit Reduction Act of 2008 and the Children's Health Insurance Program Reauthorization Act of 2009.

B. A waiver recipient shall be disenrolled from the program if any one of the following occurs. The recipient:

1. has family income that exceeds the income limits at redetermination;
2. voluntarily withdraws from the program;
3. no longer resides in a parish within the greater New Orleans area;
4. becomes incarcerated or becomes an inpatient in an institution for mental disorders;
5. obtains health insurance coverage;
6. turns 65 years old; or
7. dies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 65. Services

§6501. Covered Services

A. The following services shall be available to GNOCHC Waiver recipients:

1. care coordination;
2. immunizations and influenza vaccines;
3. laboratory and radiology;
4. behavioral health care;
5. pharmacy;
6. primary health care;
7. preventive health care;
8. substance abuse; and

9. specialty care (covered with a referral from the primary care physician).

B. Cost-sharing may be applicable to the services rendered in this waiver program. All demonstration cost-sharing shall be in compliance with federal statutes, regulations and policies. A waiver recipient's share of the cost shall be restricted to a 5 percent aggregate limit per family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6503. Service Delivery

A. All of the covered services under this waiver program shall be delivered by an existing PCASG funded clinic.

B. All services shall be delivered on an outpatient basis. Reimbursement shall not be made under this waiver program for services rendered to recipients who meet inpatient status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 67. Provider Participation

§6701. General Provisions

A. All clinics participating in the delivery of services covered under the GNOCHC Waiver shall adhere to all of the applicable federal and state regulations, policy, Rules, manuals and laws.

B. Each participating clinic shall meet the following requirements. The clinic shall:

1. be an existing PCASG funded clinic;
2. be operational and serving waiver recipients on October 1, 2010;
 - a. if a former PCASG clinic wishes to reestablish operations as a GNOCHC participating clinic after October 1, 2010, CMS approval shall be required;
3. be a public or private not-for-profit entity that meets the following conditions:
 - a. the entity must not be an individual practitioner in private solo or group practice;
 - b. the clinic shall be currently licensed, if applicable;
 - c. either the clinic or its licensed practitioners shall be currently enrolled in the Medicaid Program; and
 - d. all health care practitioners affiliated with the clinic that provide health care treatment, behavioral health counseling, or any other type of clinical health care services to patients shall hold a current, unrestricted license to practice in the state of Louisiana within the scope of that licensure;
4. provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.;
5. have a statutory, regulatory or formally established policy commitment (e.g. through corporate bylaws) to serve all people, including patients without insurance, at every income level regardless of their ability to pay for services, and be willing to accept and serve new publicly insured and uninsured individuals;

6. maintain one or more health care access points or service delivery sites for the provision of health care services which may include medical care, behavioral health care and

substance abuse services, either directly on-site or through established contractual arrangements; and

7. be capable of implementing and evaluating the effectiveness of an organization-specific strategic plan to become a sustainable organizational entity by December 31, 2013 which is capable of permanently providing primary or behavioral health care services to residents in the greater New Orleans area.

a. For purposes of these provisions, a sustainable organizational entity shall be defined as an entity actively developing, implementing and evaluating the effectiveness of its organization to diversify its operating income and funding resources to include non-demonstration funding sources.

C. Participating providers/clinics shall be responsible for:

1. collection of all data on the services rendered to demonstration participants through encounter data or other methods so specified by the department; and
2. maintenance of such data at the provider level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6703. Reporting Requirements

A. GNOCHC participating clinics shall be required to provide a sustainability plan to the department by March 1, 2011.

B. Semi-annual progress reports on the sustainability plan shall be submitted during the second and fourth quarter of each demonstration year. The first annual report is due in the fourth quarter of the first demonstration year.

C. Participating providers/clinics shall be required to provide encounter data in the format and frequency specified by the department.

D. Clinics that do not comply with these reporting requirements shall not be eligible to receive payments from this demonstration program and may receive financial penalties for noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 69. Reimbursement

§6901. General Provisions

A. Clinics shall ensure that reimbursement for services covered under the GNOCHC Waiver is requested only for those individuals who meet the program criteria.

B. Federal financial participation (FFP) for this waiver program is limited to the federal share of \$30 million annually in demonstration expenditures in each of the first three years of the demonstration. In year four, FFP is limited to the federal share of \$7.5 million. Thus, the total FFP for this demonstration waiver program over all four years is limited to the federal share of \$97.5 million. Federal funding will not be available for expenditures in excess of these annual limits even when the expenditure limit was not reached in prior years.

1. These provisions do not preclude the department from including as allowable expenditures for a particular demonstration year any expenditures incurred after the end of a demonstration year for items or services furnished during that year.

C. The federal share of expenditures for payments to GNOCHC providers shall be calculated based upon the applicable federal medical assistance percentage rate for the year in which the expenditures were incurred.

D. The department may make an urgent sustainability payment to any eligible GNOCHC clinic that meets the criteria of this Chapter 67 and requires financial support to maintain clinical operations while the department seeks CMS approval for the funding and reimbursement protocol for this waiver program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6903. Reimbursement Methodology

A. Urgent Sustainability Payments

1. For each clinic requiring an urgent sustainability payment, the department shall determine the average payment based upon the clinic's three-year historical grant award received under the PCASG program.

2. The sustainability payment shall be no more than 25 percent of the average annual payment determined for that clinic during the PCASG period. Prior approval from CMS shall be required for sustainability payments in excess of 25 percent of the clinic's average PCASG payment. The department may disburse the payment in the first quarter of demonstration year one.

3. Upon CMS approval of the payment methodology, the department shall reconcile the amount of sustainability payments made to clinics during the period of October 1, 2010 through December 31, 2010 against the actual payments that would have been made to the clinics under the approved payment methodology.

a. Any overpayments made to a clinic shall be recouped from the clinic's payments due in the quarter following the reconciliation.

b. Any underpayments made to a clinic shall be made in the quarter following the reconciliation.

4. The total of all sustainability payments made during the first quarter in demonstration year one shall not exceed \$7.5 million. Any sustainability payments made shall be applied to the \$30 million total computable annual allotment for demonstration year one.

B. Reimbursement for services rendered during phase one and phase two of the demonstration shall be made according to the rate methodology established by the department and approved by CMS in the funding and reimbursement protocol for this waiver program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#051

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.2103, 2107, 2301, 2503 and 2915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.2103, §2107, §2301, §2503, and §2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care, and support coordination services (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate. These provisions were repromulgated by the department in December 2008 to correct an error of omission in the publication (*Louisiana Register*, Volume 34, Number 12).

The department promulgated an Emergency Rule which amended the Rule governing the ADHC Waiver to revise the provisions governing: 1) the program description; 2) the allocation of waiver opportunities; and 3) the provision of services and discharge criteria (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid federal sanctions for noncompliance with federal requirements for the provision of waiver services.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Adult Day Health Care Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2103. Program Description

A. An Adult Day Health Care Waiver program expands the array of services available to individuals with functional impairments, and helps to bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for individuals who have physical, mental or functional impairments. ADHC waiver participants must attend a minimum of 36 days per calendar quarter, absent extenuating circumstances. Exceptions for extenuating circumstances must be approved by the assigned support coordinator based upon guidance provided by OAAS.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§2107. Programmatic Allocation of Waiver Opportunities

A. ...

B. Adult Day Health Care Waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for ADHC Waiver opportunities in the order listed:

1. individuals with substantiated cases of abuse or neglect with Adult Protective Services (APS) or Elderly Protective Services (EPS) and who, absent ADHC Waiver services, would require institutional placement to prevent further abuse and neglect;

a. - c. repealed.

2. individuals who have been discharged after a hospitalization within the past 30 days that involved a stay of at least one night;

3. individuals presently residing in nursing facilities for 90 or more continuous days; and

4. all other eligible individuals on the Request for Services Registry (RFSR), by date of first request for services.

C. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December

2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 23. Services

§2301. Covered Services

A. ...

1. Adult Day Health Care. ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished on a regularly scheduled basis. An adult day health care center shall, at a minimum, furnish the following services:

a. - j. NOTE. ...

2. Support Coordination. These services assist participants in gaining access to necessary waiver and other State Plan services, as well as medical, social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved Plan of Care (POC). This is a mandatory service.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 25. Admission and Discharge Criteria

§2503. Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. - 7. ...

8. The participant fails to attend the ADHC Center for a minimum of 36 days per calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 29. Reimbursement

§2915. Provider Reimbursement

A. - C. ...

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the Minimum Data Set Home Care (MDS/HC), the CPOC and home visits will no longer be the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the ADHC Waiver. As a result of the change in responsibilities, the rate paid to ADHC providers shall be adjusted accordingly.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#028

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers
Children's Choice
Allocation of Waiver Opportunities
(LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2010 Emergency Rule.

This action is being taken to secure enhanced federal funding.

Effective May 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

1. The only exceptions to the first come, first served allocation of waiver opportunities shall be for the:

a. Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only; and

b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.

B. - B.1.b. ...

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the Office for Citizens with Developmental Disabilities (OCDD) regional offices and human services authorities and districts as needing more family support services than what is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

a. be under 18 years of age;

b. be designated by the OCDD regional office, human services authority or district as meeting priority level 1 or 2 criteria;

c. be Medicaid eligible;

d. be eligible for state developmental disability services; and

e. meet the ICF/DD level of care.

2. Each OCDD regional office and human services authority or district shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria.

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. the individual's medical care needs;

ii. documented abuse or neglect of the individual;

iii. the individual's intense or frequent challenging behavioral needs; or

iv. death or inability of the caregiver to continue care due to their own age or health; or

v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of their independence or productivity.

3. Children who qualify for one of these waiver opportunities are not required to have a protected request date on the Developmental Disabilities Request for Services Registry.

4. Each OCDD regional office, human services authority and district shall have a specific number of these opportunities designated to them for allocation to waiver recipients.

5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular OCDD regional office, human services authority or district for another opportunity to be offered.

6. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources currently available for individuals with developmental disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#054

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and**

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department now proposes to amend the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective May 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions of the August 20, 2010 Emergency Rule governing the Residential Options Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 13. Residential Options Waiver

Chapter 161. General Provisions

§16101. Introduction

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16103. Program Description

A. The ROW is designed to utilize the principles of self determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16105. Participant Qualifications

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1 - 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 37:

§16106. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 37:

§16107. Programmatic Allocation of Waiver Opportunities

A. The Developmental Disabilities Request for Services Registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

iv. referred by child, adult, or elderly protective authorities;

v. without a caregiver and cannot adequately care for self;

vi. with a caregiver who can no longer provide care; or

vii. whose needs cannot be met within a community living situation;

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;

d. participate in the MFP rebalancing demonstration; and

e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16109. Admission Denial or Discharge Criteria

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state ;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD.

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days.

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid state plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16303. Community Living Supports

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;

2. socialization skills training;

a. Repealed.

3. cognitive, communication tasks, and adaptive skills training; and

a. Repealed.

4. development of appropriate, positive behaviors.
 - a. - b. Repealed.
 - C. ...
 - D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:
 1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;
 2. the health and welfare of each participant must be assured through the provision of shared services;
 3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and
 4. a shared rate must be billed.
 - E. - E.1. ...
 2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.
 3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.
 4. Participants may not live in the same house as CLS staff.
 5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.
 6. Community living supports shall not be provided in a licensed respite care facility.
 - a. - d. Repealed.
 7. Community living supports services are not available to individuals receiving the following services:
 - a. shared living;
 - b. home host; or
 - c. companion Care.
 8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:
 - a. day habilitation;
 - b. prevocational;
 - c. supported employment;
 - d. respite-out of home services; or
 - e. transportation-community access.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16305. Companion Care

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished

through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
2. community integration and coordination of transportation services, including medical appointments.
3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. arranging the delivery of services and providing emergency services as needed;
- b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;
- c. contacting the companion a minimum of once per week or as specified in the participant's POC; and
- d. providing 24-hour oversight and supervision of the companion care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:
 - a. participating in and abiding by the POC;
 - b. ...
 - c. purchasing his/her own food and personal care items.

E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

F. Service Exclusions

1. Companion Care is not available to individuals receiving the following services:

- a. Respite Care Service—Out of Home;
 - b. Shared Living;
 - c. Community Living Supports; or
 - d. Host Home.
2. - 2.d. Repealed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16307. Day Habilitation Services

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. - 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the day habilitation service; however, transportation is payable only when a day habilitation service is provided on the same day.

2. - 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;

2. preventative services;

3. restorative services;

4. endodontic services;

5. periodontal services;

6. removable prosthodontics services;

7. maxillofacial prosthetics services;

8. fixed prosthodontics services;

9. oral and maxillofacial surgery

10. orthodontic services; and

11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;
2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;
3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and
4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;
2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and
2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. host home; or
- b. shared living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:
 - a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or
 - b. to purchase or lease a vehicle.
2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of

warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

- i. meet the applicable state and/or local requirements governing their licensure or certification; and
- ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the structural vehicle modifier category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16313. Host Home

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host Home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;
2. assistance to develop leisure interests and daily activities in the home setting;
3. assistance to develop relationships with other members of the household;
4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and
5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;
2. making an initial and periodic inspections of the host home; and
3. providing 24-hour oversight and supervision of host home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;
2. maintaining and providing data to assist in the evaluation of the participant's personal goals
3. maintaining adequate records to substantiate service delivery and producing such records upon request;
4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and
5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

a. - 3. ...

J. Provider Qualifications

1. All agencies must:
 - a. have experience in delivering therapeutic services to persons with developmental disabilities;
 - b. have staff who have experience working with persons with developmental disabilities;
 - c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and
 - d. provide on-going assistance to the Host Home contractors so that all HCBS requirements are met.
2. Agencies serving children must be licensed by the Department of Social Services as a class "A" child placing agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of substitute family care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16315. Intensive Community Supports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the state's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for

persons with dual diagnosis—mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

- a. volunteer nursing experience; or
- b. experience gained by caring for a relative or friend with developmental disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16319. One Time Transitional Services

A. One Time Transitional Services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;
2. set up fees for utilities;
3. essential furnishings to establish basic living arrangements, including:
 - a. bedroom and living room furniture;
 - b. table and chairs;
 - c. window blinds; and
 - d. food preparation items and eating utensils;
4. set-up/deposit fee for telephone service;
5. moving expenses; and
6. health and safety assurances including:
 - a. pest eradication; or
 - b. one-time cleaning prior to occupancy.

C. Service Limits

1. One time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One time transitional services may not be used to pay for:
 - a. housing, rent or refundable security deposits; or
 - b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.
2. One time transitional services are not available to participants who are receiving Host Home services.
3. One time transitional services are not available to participants who are moving into a family member's home.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16321. Personal Emergency Response System (PERS)

A. Personal Emergency Response System (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...
2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or
3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for Shared Living Services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16323. Prevocational Services

A. Prevocational services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b. ...

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

3.a. - 5.a. Repealed.

E. Service Exclusions

1. Prevocational Services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out of home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16325. Professional Services

A. Professional Services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;

2. physical therapist;

3. speech therapist;

4. registered dietician;

5. social worker; and

6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. - d. Repealed.

E. Provider Qualifications

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

- a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and
- b. possess one year of service delivery experience with persons with developmental disabilities.
- c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis—mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16327. Respite Care Services—Out of Home

A. Respite care services—out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

a. shared living;

b. companion care; or

c. host home.

d. repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16329. Shared Living Services

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the Shared Living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid facility need review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

- a. community living supports;
- b. respite care services;
- c. companion care;
- d. host home; or
- e. personal emergency response system.

E. Provider qualifications. providers must be approved by the department and have a current, valid license as a supervised independent living agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16331. Specialized Medical Equipment and Supplies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid state plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16335. Supported Employment

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. - 3.c. ...

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. - 6.c....

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a Community Rehabilitation Program or a current, valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16337. Transportation-Community Access

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

a. Shared Living Services; or

b. Community Living Services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish Transportation-Community Access services to waiver participants must be enrolled as Medicaid Friends and Family Transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
 - b. a current state inspection sticker; and
 - c. a current valid driver's license.
2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

E.1. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. ...

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. ...

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the Personal Purchasing Plan and the POC;

C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 167. Provider Participation

§16701. General Provisions

A. ...

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except Host Home contractors and Companion Care workers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16703. Staffing Restrictions and Requirements

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

- a. become an employee of the participant's chosen waiver provider agency;
- b. become a Medicaid enrolled provider agency; or
- c. if the self-direction option is selected, relatives must:
 - i. become an employee of the self-direction participant; and
 - ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service

provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e....
 - f. registered dietician;
4. Support Coordination; or
5. Supported Employment:
 - a. individual placement; and
 - b. micro-enterprise.
6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
 - a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.
2. assistive technology/specialized medical equipment and supplies.
3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...
2. companion cares; and
3. shared living services;
 - a. Per diem rates are established based on the number of individuals sharing the living service module for both Shared Living Non-Conversion and Shared Living Conversion Services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:
 - a. mobile crew; and
 - b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for Residential Options Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;
- c. specialized medical equipment and supplies; and
- d. support coordination services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

§16903. Direct Support Staff Wages

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;
2. respite services-out of home;
3. shared living;
4. day habilitation;
5. prevocational services; and
6. supported employment.
7. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821- 9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#047

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Reimbursement Methodology
(LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates

for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

The department now proposes to amend the provisions governing inpatient hospital services to revise the reimbursement methodology for non-rural, non-state public hospitals. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the hospital services program and to ensure recipient access to services. It is estimated that the implementation of this Emergency Rule will increase expenditures in the Medicaid Program for inpatient hospital services by approximately \$5,436,999 for state fiscal year 2010-2011.

Effective May 15, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state public hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - Q. ...

R. Effective for dates of service on or after May 15, 2011, non-rural, non-state public hospitals shall be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552(July 2010), LR 36:2561 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#052

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Pre-Admission Certification (LAC 50:V.301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50: V.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the December 20, 1985 Rule governing the reimbursement methodology and inpatient admission criteria for designated surgical procedures performed in an ambulatory (outpatient) setting, and amended the provisions of the June 20, 1994 Rule governing registration, length of stay assignments and pre-admission certification for inpatient hospital services to require pre-admission certification for all admissions to non-state and state operated acute care general hospitals (*Louisiana Register*, Volume 36, Number 1). The January 20, 2010 Rule also repromulgated the provisions contained in the June 20, 1994 Rule and a June 20, 2001 Rule governing pre-admission certification and length of stay assignments for inpatient psychiatric services for inclusion in the *Louisiana Administrative Code*.

The department determined that it was necessary to amend the provisions of the January 20, 2010 Rule to revise the provisions governing extensions of the initial length of stay assignment for inpatient hospital admissions (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 26, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients who rely on the services provided by acute care hospitals.

Effective May 25, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing pre-admission certification for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Pre-Admission Certification

§301. General Provisions

A. - F.2. ...

a. Subsequent approved extensions may be submitted for consideration referencing customized data, Southern Regional and national length of stay data.

F.3. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:66 (January 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#055

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—State Hospitals Supplemental Payments (LAC 50:V.551)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.551 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1983 that established the reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register*, Volume 9, Number 6). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles utilizing a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 29, 1982. In October 1984, the department established separate per diem limitations for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation (*Louisiana Register*, Volume 10, Number 10). In October 1992, the department promulgated a Rule which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services (*Louisiana Register*, Volume 18, Number 10). The department subsequently amended the reimbursement methodology for inpatient hospital services to establish a prospective payment methodology for non-state hospitals (*Louisiana Register*, Volume 20, Number 6). The per discharge and per diem limitations in state acute care hospitals were rebased by a Rule promulgated in December of 2003 (*Louisiana Register*, Volume 29, Number 12). The Bureau subsequently amended the reimbursement methodology for inpatient services provided in state acute hospitals (*Louisiana Register*, Volume 32, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to state-owned acute care hospitals that meet the qualifying criteria, and to adjust the reimbursement paid to non-qualifying state-owned acute care hospitals (*Louisiana Register*, Volume 36, Number 11). The department amended the provisions of the October 16, 2010 Emergency Rule in order to clarify the provisions governing the reimbursement methodology for those state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment (*Louisiana Register*, Volume 37, Number 2). For the purpose of clarity, the January 20, 2011 Emergency Rule also incorporated the provisions of the February 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the January 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective May 21, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by state-owned acute care hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 5. State Hospitals

Subchapter B. Reimbursement Methodology

§551. Acute Care Hospitals

A. Inpatient hospital services rendered by state-owned acute care hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

B. Effective for dates of service on or after October 16, 2010, a quarterly supplemental payment up to the Medicare upper payment limits will be issued to qualifying state-owned hospitals for inpatient acute care services rendered.

1. - 2. Repealed.

C. Qualifying Criteria for Supplemental Payment. The state-owned acute care hospitals must be located in DHH Administrative Region 8 (Monroe).

D. Effective for dates of service on or after October 16, 2010, Medicaid rates paid to state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment shall be adjusted to 60 percent of allowable Medicaid costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#056

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology Minimum Data Set Assessments (LAC 50:II.20001, 20007, 20013 and 20015)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20001, 20007, 20013 and 20015 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 694 of the 2001 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing the prospective reimbursement methodology for private nursing facilities and established a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities (*Louisiana Register*, Volume 28, Number 6). The department amended the June 20, 2002 Rule to incorporate new definitions and revised current definitions governing nursing facility reimbursements. The December 20, 2002 Rule also revised the provisions governing the submission of cost reports and adopted provisions governing verification of minimum data set (MDS) assessments and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing MDS assessments in order to comply with new federal requirements (*Louisiana Register*, Volume 36, Number 10). The October 20, 2010 Emergency Rule also changed the date that MDS assessments are due. This Emergency Rule is being promulgated to continue the provisions of the October 20, 2010 Emergency Rule. This action is being taken to avoid sanctions from the Centers for Medicare and Medicaid Services for noncompliance with the federal mandate to utilize the new MDS assessment data.

Effective June 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing MDS assessments.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Long Term Care Services
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. Definitions

* * *

Assessment Reference Date—the date on the Minimum Data Set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

* * *

Case-Mix Index—a numerical value that describes the resident's relative resource use within the groups under the Resource Utilization Group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

* * *

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the Assessment Reference Date (ARD) field on the MDS.

* * *

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

1. Repealed.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

* * *

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding

categories, that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

On-Site MDS Review—Repealed.

* * *

Point-in-Time—Repealed.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

* * *

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

1. The Summary Review Results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

* * *

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§20007. Case-Mix Index Calculation

A. The Resource Utilization Groups-III (RUG-III) Version 5.20, 34-group, or its successor, index maximizer model shall be used as the resident classification system to determine all case-mix indices, using data from the minimum data set (MDS) submitted by each facility. Standard Version 5.20, or its successor, case-mix indices developed by CMS shall be the basis for calculating average case-mix indices to be used to adjust the direct care cost component. Resident assessments that cannot be classified to a RUG-III group, or its successor, will be excluded from the average case-mix index calculation.

B. Effective with the January 1, 2011 rate setting, each resident in the facility, with a completed and submitted assessment, shall be assigned a RUG-III, 34-group, or its successor, on the last day of each calendar quarter. The RUG-III group, or its successor, is calculated based on the resident's most current assessment, available on the last day of each calendar quarter, and shall be translated to the appropriate case-mix index. From the individual resident case-mix indices, two average case-mix indices for each Medicaid nursing facility shall be determined four times per year based on the last day of each calendar quarter.

C. Effective with the January 1, 2011 rate setting, the facility-wide average case-mix index is the simple average, carried to four decimal places, of all resident case-mix indices. The Medicaid average case-mix index is the simple average, carried to four decimal places, of all indices for residents where Medicaid is known to be the per diem payor source on the last day of the calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1792 (August 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§20013. Case-Mix Minimum Data Set Documentation Reviews and Case-Mix Index Reports

A. The department or its contractor shall provide each nursing facility with the Preliminary Case-Mix Index Report (PCIR) by approximately the fifteenth day of the second month following the beginning of a calendar quarter. The PCIR will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction policy where applicable. The department or its contractor shall provide each nursing facility with a Final Case-Mix Index Report (FCIR) (point-in-time) utilizing MDS assessments after allowing the facilities a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case-mix index associated with the RUG-III group "BC1-Delinquent" or its successor. A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III, or its successor, classification system.

B. The department or its contractor shall periodically review the MDS supporting documentation maintained by nursing facilities for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify facilities of the Case-Mix MDS Documentation Reviews (CMDR) not less than two business days prior to the start of the review date and a FAX, electronic mail or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying possible documentation that will be required to be available at the start of the on-site CMDR.

1. The department or its contractor shall review a sample of MDS resident assessments equal to the greater of

20 percent of the occupied bed size of the facility or 10 assessments and shall include those transmitted assessments posted on the most current FCIR. The CMDR will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the CMDR, the department or its contractor shall consider all MDS supporting documentation that is provided by the nursing facility and is available to the RN reviewers prior to the exit conference. MDS supporting documentation that is provided by the nursing facility after the exit conference shall not be considered for the CMDR.

3. Upon request by the department or its contractor, the nursing facility shall be required to produce a computer-generated copy of the transmitted MDS assessment which shall be the basis for the CMDR.

4. After the close of the CMDR, the department or its contractor will submit its findings in a Summary Review Results (SRR) letter to the facility within 10 business days following the exit conference.

5. The following corrective action will apply to those facilities with unsupported MDS resident assessments identified during an on-site CMDR.

a. If the percentage of unsupported assessments in the initial on-site CMDR sample is greater than 25 percent, the sample shall be expanded, and shall include the greater of 20 percent of the remaining resident assessments or 10 assessments.

b. If the percentage of unsupported MDS assessments in the total sample is equal to or less than the threshold percentage as shown in column (B) of the table in Subparagraph e below, no corrective action will be applied.

c. If the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the table in Subparagraph e below, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. A follow-up CMDR process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those providers exceeding the thresholds (see column (B) of the table in Subparagraph e during the initial on-site CMDR will be given 90 days to correct their assessing and documentation processes. A follow-up CMDR may be performed at the discretion of the department at least 30 days after the facility's 90-day correction period. The department or its contractor shall notify the facility not less than two business days prior to the start of the CMDR date. A FAX, electronic mail, or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that must be available at the start of the on-site CMDR.

e. After the follow-up CMDR, if the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the

CMDR process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in Column (B) of the table below may be required to enter into an MDS Documentation Improvement Plan with the Department of Health and Hospitals. Additional follow-up CMDR may be conducted at the discretion of the department.

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006 and beyond	25%

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§20015. Appeal Process

A. If the facility disagrees with the CMDR findings, a written request for an informal reconsideration must be submitted to the department or its contractor within 15 business days of the facility's receipt of the CMDR findings in the SRR letter. Otherwise, the results of the CMDR findings are considered final and not subject to appeal. The department or its contractor will review the facility's informal reconsideration request within 10 business days of receipt of the request and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#057

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Pharmacy Benefits Management Program
Maximum Allowable Costs (LAC 50:XXIX.949)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the *Louisiana Administrative Code (Louisiana Register, Volume 32, Number 6)*. The department later promulgated a Rule (*Louisiana Register, Volume 34, Number 1*) amending the provisions of the June 20, 2006 Rule governing methods of payments in order to comply with the directives of Act 801 of the 2006 Regular Session of the Louisiana Legislature, which directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. An Emergency Rule was later promulgated to repeal the January 20, 2008 Rule and to restore the repealed provisions of the June 20, 2006 Rule in the *Louisiana Administrative Code (Louisiana Register, Volume 36, Number 1)*.

Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register, Volume 36, Number 1*). In addition, the dispensing fee was increased for drugs with an LMAC.

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register, Volume 36, Number 2*). The department promulgated an Emergency Rule to amend the February 1, 2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee (*Louisiana Register, Volume 36, Number 3*). The department determined that it was necessary to repeal the March 1, 2010

Emergency Rule in its entirety and promulgated an Emergency Rule to amend the provisions governing the methods of payment for prescription drugs to revise the LMAC provisions (*Louisiana Register*, Volume 36, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule. This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit.

Effective June 16, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Cost Limits

A. - B. ...

1. Louisiana Maximum Allowable Cost (LMAC) is the average actual acquisition cost of a drug, defined as the pharmacist's payment made to purchase a drug product, adjusted by a multiplier of 2.35.

2. LMAC reimbursement will apply to certain multiple source drug products that meet therapeutic equivalency, market availability, and other criteria deemed appropriate by the Louisiana Medicaid Agency. Drugs are subject to LMAC if there are at least two non-innovator multiple source alternative products available that are classified by the FDA as Category "A" in the Approved Drug Products with Therapeutic Equivalence Evaluations.

3. LMAC rates are based on the average actual acquisition cost per drug, adjusted by a multiplier of 2.35, which assures that each rate is sufficient to allow reasonable access by providers to the drug at or below the established LMAC rate. The LMAC rate will apply to all versions of a drug that share the same active ingredient combination, strength, dosage form, and route of administration.

4. Average actual acquisition cost will be determined through a semi-annual collection and review of pharmacy invoices and other information deemed necessary by the Louisiana Medicaid Agency and in accordance with applicable State and Federal law.

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC rate listing will be available to providers and updated periodically.

6. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1105#058

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program
Prescription Limit Reduction
(LAC 50:XXIX.113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing prescription limits in the Pharmacy Benefits Management Program to reduce the number of prescriptions covered by the Medicaid Program within a calendar month for certain recipients (*Louisiana Register*, Volume 35, Number 9).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to further reduce the number of prescriptions covered by the Medicaid Program within a calendar month (*Louisiana Register*, Volume 37, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2011 Emergency Rule. This

action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing prescription limits in the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§113. Prescription Limit

A. Effective February 1, 2011, the Department of Health and Hospitals will pay for a maximum of four prescriptions per calendar month for Medicaid recipients.

B. The following federally mandated recipient groups are exempt from the four prescriptions per calendar month limitation:

1. persons under 21 years of age;
2. persons who are residents of long-term care institutions, such as nursing homes and ICF-DD facilities; and
3. pregnant women.

C. The four prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

1. “medically necessary override;” and
2. a valid ICD-9-CM, or its successor, diagnosis code that is directly related to each drug prescribed that is over the four prescription limit (no ICD-9-CM, or its successor, literal description is acceptable).

D. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient’s disease state or medical condition and the current drug regime before making a determination that more than four prescriptions per calendar month is required by the recipient.

E. ...

F. An acceptable statement and ICD-9-CM, or its successor, diagnosis code is required for each prescription in excess of four for that month.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009), LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1104#059

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Added Controlled Dangerous Substances
(LAC 46:LIII.2704)

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the rulemaking authority granted to the Secretary of DHH by R.S. 40:962(C), hereby adopts the following rule for the protection of public health. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

The secretary, through DHH/OPH, found it necessary to adopt an initial Emergency Rule (of the same subject matter contained herein) on January 6, 2011. The initial Emergency Rule is scheduled to terminate 120 days from January 6, 2011 (i.e., on May 5, 2011). A Notice of Intent was published in the March 20, 2011 issue of the *Louisiana Register* with the goal of adopting a permanent rule soon, but no earlier than June 20, 2011. A public hearing for the proposed permanent rule was held on April 28, 2011.

The Emergency Rule promulgated herein shall be effective May 5, 2011 or immediately upon expiration of the above-referenced Emergency Rule adopted on January 6, 2011, whichever occurs first.

The substance of the Emergency Rule promulgated herein remains exactly the same as the initial Emergency Rule dated January 6, 2011. However, realizing the important role that pharmacists licensed under the Louisiana Board of Pharmacy provide with respect to the regulation of certain other controlled dangerous substances, the secretary has chosen to place the Emergency Rule promulgated herein into Chapter 27 (Controlled Dangerous Substances) of LAC 46:LIII (Professional and Occupational Standards: Pharmacists).

Based on the criteria and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be listed as controlled dangerous substances. In reaching the decision to designate the below listed substances herein as controlled dangerous substances to Schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that Schedule I is the most appropriate due to his findings that the substances added herein have a high potential for abuse, the substances are not currently accepted as medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 49:961 et seq.:

1. 3,4-Methylenedioxymethcathinone (Methylone);
2. 3,4-Methylenedioxypyrovalerone (MDPV);
3. 4-Methylmethcathinone (Mephedrone);
4. 4-Methoxymethcathinone;
5. 3-Fluoromethcathinone;
6. 4-Fluoromethcathinone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962 and R.S. 40:963.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:

Bruce D. Greenstein
Secretary

1105#019

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Judicial Agency Referral Residential Facilities (LAC 22:I.Chapter 13)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule for the Judicial Agency Referral Residential Facilities mandated by Act No. 496 of the 2010 Regular Session is necessary and failure to adopt the rule on an emergency basis will result in imminent peril to the public health, safety and welfare. The Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an emergency rule for implementation of the Judicial Agency Referral Residential Facilities is necessary and hereby provides notice of its Declaration of Emergency effective on May 4, 2011, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 13. Residential Referral Subchapter A. General Provisions

§1301. Judicial Agency Referral Residential Facilities

A. Purpose—to state the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to a certified residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, director of probation and parole and administrators of housing or temporary residential facilities. The chief of operations is responsible for the overall implementation, compliance and review of this regulation. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy—no facility not otherwise required to be licensed by the Department of Health and Hospitals or Department of Children and Family Services, shall provide housing or temporary residence to any individual referred by

a judicial agency except in accordance with this regulation. Referrals to such facilities by a judicial agency may only be made after the facility has been inspected by the Department of Public Safety and Corrections and certified to be in compliance with the standard operating procedures established pursuant to this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The state fire marshal and state health officer shall determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the standard operating procedures (SOP) for judicial agency referral residential facilities. Revisions to the SOP shall be accomplished through this regulation under the signature of the secretary.

4. The facility shall be accredited by the American Correctional Association within twenty-four months of opening and shall maintain accreditation at all times thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:666 (April 2007), amended LR 37:

Subchapter B. Standard Operating Procedures for Judicial Agency Referral Residential Facilities

§1303. Standard Operating Procedures

A. American Correctional Association (ACA)

1. All judicial agency referral residential facilities shall be operated in accordance with R.S. 40:2852 and must maintain accreditation by the American Correctional Association Standards for Adult Community Residential Services. Facilities shall be accredited by the American Correctional Association (ACA) within 24 months of opening as a judicial agency referral residential facility.

2. Written policies and procedures that reflect compliance with ACA and the standard operating procedures for judicial agency referral residential facilities, as well as facility rules for resident behavior must be submitted to and approved by the secretary of the Department of Public Safety and Corrections prior to beginning operations or implementation. Any proposed revisions to policies, procedures or facility rules must be submitted for approval prior to implementation.

B. Administration

1. The facility shall have a written document describing the facility's organization. The description shall include an organizational chart that groups similar functions, services and activities in administrative subunits. The chart is reviewed at least annually and updated, if needed.

2. Regular meetings between the facility administrator and all department heads shall be held monthly and there is formal documentation that such meetings occurred.

3. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute or regulation, but at least every three years.

4. Each facility shall have insurance coverage that includes, at a minimum, property insurance and

comprehensive general liability insurance. Such insurance is provided either through private companies or self insurance.

5. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with Subsection K, "Resident's Personal Funds."

6. Staffing requirements for the facility shall ensure there is 24 hour on site staff monitoring and coordinating of the facility's life safety and communications systems and also to respond to resident needs.

7. Standard of Conduct for Employees of Judicial Agency Referral Residential Programs

a. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

b. Each employee shall be advised of the location of the facility manual that specifies the operating and maintenance requirements of the facility. The location of the manual shall be accessible to all employees.

c. The facility shall provide adequate staff at the facility 24 hours a day to control the movement and location at all times of all residents assigned to the facility and to respond to their needs. However, when both female and male residents are housed in the same facility, at least one male and one female staff member are on duty at all times.

d. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

e. There shall be written job descriptions and job qualifications for all positions in the facility. Each job description includes at a minimum: job title; responsibilities of the position; required minimum experience; and education.

f. All full-time employees must receive 40 hours of orientation training prior to undertaking their assignments (administrators, managers, professional and careworkers) and must participate in 40 hours of training their first year of employment and each year thereafter. Clerical/support staff shall be provided with 16 hours of training in addition to orientation during their first year and 16 hours of training each year thereafter. All training curriculum shall be in accordance with the applicable ACA standards.

8. A training procedure shall be in place which shall include orientation for all new employees (appropriate to their job) prior to assuming a position.

9. Case records shall be maintained for each resident housed at the facility.

10. Written records or logs shall be maintained at the facility which continuously documents the following information: (1) personnel on duty; (2) resident population; (3) admission and release of residents; (4) shift activities; (5) entry/exit of all visitors including legal/medical; (6) unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence.) Shift reports are also prepared after the completion of each shift.

C. Physical Plant

1. The facility shall comply with the requirements of the state fire marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the state fire marshal. The state fire marshal shall approve any variances, exception or equivalencies.

2. The facility shall comply with the requirements of the state health officer and shall have a specific plan for

addressing deficiencies, if any, that is approved by the state health officer.

3. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the state fire marshal and state health officer. The state fire marshal shall determine a capacity based upon exiting capabilities. The state health officer shall determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity shall be the lower of these two figures.

4. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule.

5. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

6. The facility shall have a method to ensure the control of vermin and pests.

7. Toilet and hand basin facilities are available to food service personnel in proximity to the food preparation area.

8. The facility shall have exits that are properly positioned, clear, distinct and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

9. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

10. The facility shall have a written emergency plan, which includes an evacuation plan, to be used in the event of a fire or major emergency. Evacuation drills shall be conducted at least quarterly on each shift when the majority of the residents are present. Facility staff shall be trained in the implementation of written emergency plans and the plans shall be disseminated to appropriate local authorities, including the Department of Public Safety and Corrections.

11. A qualified person conducts fire inspections at least quarterly and equipment is tested as specified by the manufacturer or the fire authority, whichever is more frequent. All furnishings shall comply with fire safety performance requirements.

12. All flammable materials shall be handled and stored safely. The use of toxic and caustic materials shall be controlled.

D. Facility Operations

1. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program. This shall include residents who are absent from the program for work, education or other temporary absence.

2. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases or removes a resident from the facility.

3. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident

cannot be located a report must be filed by the next working day with the referring judicial authority.

4. When a resident leaves the facility for any reason, he shall sign out in the facility resident log. Each entry shall include:

- a. resident's name;
- b. destination;
- c. phone number at destination;
- d. address of destination;
- e. time out; anticipated time of return;
- f. actual time of return; and
- g. the initials of the appropriate staff member charged with monitoring the log book.

5. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

6. Alcohol/drug testing shall be conducted both randomly and for probable cause. Drug testing shall be conducted monthly on a minimum of 10 percent of the residents. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

7. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on-duty staff.

8. The facility shall have a written emergency plan that is disseminated to the local authorities including but not limited to the local police and fire department.

9. The facility shall have disciplinary rules and procedures available to the resident population.

10. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin or sex. The facility shall have written policy, procedure and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage and harassment.

11. Possession and use of weapons is prohibited in the facility except in the event of an emergency.

12. A written report shall be prepared following all uses of force detailing all circumstances, listing all involved, including witnesses and describing medical services provided. Such reports shall be submitted to the facility administrator and maintained on file.

E. Facility Services

1. Written policy, procedure and practice shall require that dietary allowances are reviewed at least annually by a qualified nutritionist, dietician or physician to ensure that they meet the nationally recommended allowances for basic nutrition for the type of residents housed at the facility. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24 hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

2. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

3. The facility shall have a written housekeeping and maintenance plan that provides for the ongoing cleanliness

and sanitation of the facility, including a plan for the control of vermin and pests.

4. The facility has an obligation to ensure that the resident has adequate clothing appropriate to the season and the resident's work status, including adequate changes of clothing to allow for regular laundering.

5. The facility shall provide adequate bedding and linens including two sheets, pillow and pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls. Residents shall have access to personal hygiene articles including soap, towels, toothbrush, toothpaste, comb, toilet paper, shaving gear and/or feminine hygiene articles.

6. The facility shall have written policy, procedure and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority that may be a physician, a licensed or registered health care provider or health agency. Access to these services are available 24 hours per day in case of emergency and should be unimpeded in the sense that non-medical staff should not approve or disapprove residents requests for services in accordance with the facility's health care plan.

7. Anyone providing health care services to residents shall be licensed, registered or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration or certification. Standing or direct orders may be used in the treatment of residents only when authorized in writing by a physician or dentist.

8. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training and job description. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

9. The facility shall provide access to 24 hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel or on-duty qualified health care personnel.

10. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention.

11. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as ordered by the prescribing physician.

12. First aid kits shall be available in areas of the facility as designated by the health care authority. Contents and locations are approved by the health authority.

13. Sick call shall be conducted by a physician and/or other qualified health care personnel who are licensed, registered or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration or certification.

14. There is a written suicide prevention and intervention program that is approved by a medical or mental health professional who meets the educational and license/certification criteria specified by his/her respective professional discipline. All staff with responsibility for

resident supervision are trained in the implementation of the program.

15. Written policy, procedure and practice shall specify and govern the actions to be taken in the event of a resident's death.

16. Residents shall not participate in medical, pharmaceutical or cosmetic experiments. This does not preclude individual treatment of a resident based on the need for a specific medical procedure that is not generally available.

F. Resident Programs

1. Educational programming shall be available from acceptable internal or external sources which shall include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

2. Written policy, procedure and practice shall govern resident correspondence. Such policy shall include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives. Written policy, procedure and practice govern resident access to publications and packages from outside sources. Staff members shall have access to policies concerning resident correspondence.

3. Written policy, procedure and practice govern visiting. The only time an approved visitor can be denied a visit is where there is substantial evidence that the visitor poses a threat to the safety of the resident or the security of the program.

4. Reading materials shall be available to residents on a reasonable basis.

5. Residents shall have an opportunity for religious practice.

6. Recreation and leisure time activities are available to meet the need of the residents.

7. Substance abuse services through community referrals shall be provided, along with adequate monitoring, for residents identified through assessment who have alcohol and/or drug abuse problems.

8. The facility shall have a grievance procedure with at least one level of appeal. However, if the resident is not satisfied with the outcome of the facility's internal decision they shall be allowed to appeal to the referring judicial agency.

G. Employment

1. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer shall be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected shall be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

2. Other than noted above, there are no general restrictions on the types of jobs residents may be considered for except those relative to juveniles; however, common

sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents shall not be employed in a bar, lounge or tavern as a bartender, waiter or janitor. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is verified by the facility and is determined to be appropriate.

3. No resident shall be employed in a position which would necessitate his/her departure from the state of Louisiana without the express consent of the probation and parole officer, district attorney and/or the court, whichever is applicable.

4. Every reasonable effort shall be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to the facility providing transportation, should not be a deciding factor as to where residents are employed.

5. Residents shall be assisted by facility staff in obtaining gainful employment. The facility shall be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

6. All employers must sign the employer's work agreement form which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the employer's work agreement to all approved employers. A copy of the signed form shall be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

7. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, shall be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

8. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

9. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

10. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s) and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

11. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the permanent log.

H. Community Involvement

1. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Community resources should be obtained through referrals or by contract to provide residents with services to meet their needs.

2. Policies and procedures regarding citizen involvement shall be developed and volunteers shall be subject to approval by the facility administrator.

3. The facility shall have an advisory board that is representative of the community in which it is located that meets at least annually. The local Department of Public Safety and Corrections Probation and Parole Office, shall designate a staff person to serve on this board.

I. Resident Activities

1. Permanent Log

a. A permanent log shall be maintained which shall indicate when residents report to and leave work and shall list events, messages, telephone calls, unusual incidents, counts, meals, etc. This permanent log shall be maintained continuously by the careworker staff. All resident work schedules shall be verified by facility staff prior to the resident being logged out for work.

2. Resident Log

a. A daily resident log shall be maintained which shall indicate when residents leave and return to the facility for any reason. The resident shall sign out in the facility log book. Each entry shall include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty shall initial each entry when the resident leaves the facility and when he returns. A clock with the correct time shall be visible to both the resident and the employee and shall serve as the official timepiece. This daily resident log will begin at 12 a.m. midnight and cover a 24 hour period. Resident logs shall be kept on file for at least three years.

b. Random pat searches shall be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests shall be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests shall be entered on the permanent log.

J. Resident Discipline

1. Residents assigned to the program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook and any other rules and regulations of the facility's program, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

2. All of the above shall be provided to the resident prior to his voluntary entry into the program.

3. The facility's disciplinary process shall be defined and provide appropriate procedural safeguards as outlined in the applicable ACA standards. The facility shall have a

process for informal resolution of minor infractions of facility rules. Residents charged with major rule violations shall receive a written statement of the alleged violation(s), including a description of the incident and specific rules violated. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports shall receive training on report writing. A supervisor shall review disciplinary reports prior to submission making certain essential elements (who, what, when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

4. Restriction of Privileges

a. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed shall be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances shall privileges be restricted without a proper disciplinary report, a due process hearing and a finding of guilty. The denial of food shall not be used as a disciplinary measure.

b. The resident shall be allowed to appeal the disciplinary process. If they are not satisfied with the outcome of the appeal, they shall be allowed to appeal to the referring judicial agency.

K. Resident's Personal Funds

1. General

a. In keeping with the goals and objectives of the residential program, the facility shall ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

b. Funds held on behalf of the resident shall be properly accounted for. The collection and disbursement of the residents' wages shall be in accordance with the provisions of R.S. 15:1111. The methods used for the receipt, safeguarding, disbursement and recording of funds shall comply with generally accepted accounting principles.

c. A ledger shall be maintained reflecting the financial status of each resident in the facility, and there shall be adequate documentation to support the receipt/expenditure of resident funds in each resident's official file.

d. Each facility shall engage in an independent financial audit of all funds received and held on behalf of residents at least every three years. The DPSC monitoring team visits or audits conducted by the DPSC Internal Audit Division shall not be considered an independent audit for this purpose. The cost of the independent financial audit shall not be paid from the resident trust account.

e. The resident trust account is subject to review or audit by the DPSC and/or the Office of the Governor, Division of Administration auditor at any time.

2. Management of Resident Funds

a. Bonding

i. The facility shall provide the department with certificates of bonding documenting coverage sufficient to safeguard the maximum amount of resident funds staff may be responsible for handling.

b. Resident Trust Fund Account Management

i. The balance in the resident trust account shall represent only the funds owed to the residents. Resident

funds shall not be used for other purposes (i.e., pay operational expenses) or be commingled with other bank accounts. Likewise, the trust account shall not be used to maintain other monies, such as for resident organizations, seized contraband, investments or a "slush" fund.

(a). Start up costs for each new resident shall not be paid from the resident trust account. These costs shall be paid from the facility's operating fund account, to be reimbursed by the resident once the resident begins receiving wages.

(b). The resident trust account cash balance shall be maintained at the appropriate balance to cover each resident's account balance.

(c). Signers on the resident trust account shall be an employee or other legal stakeholders of the facility. The number of signers on the account shall not exceed three people.

(d). The resident trust account shall not be a "sweep account" or used in conjunction with "sweep accounts."

(e). On a monthly basis the following actions must occur:

(i). transfer out any interest earned on the trust account. The interest earnings are property of the facility. Such interest earnings may be used to help defray administrative costs and to provide for other expenditures which will benefit the resident population;

(ii). transfer out amounts owed by residents for the daily room and board per diem;

(iii). transfer out amounts owed by residents to vendors to be paid from the operating account or pay the resident's expenses directly from the trust account;

(iv). reimburse trust account for expenses for bank service charges/fees (including fees for check orders) from the facility's operating fund account;

(v). reimburse trust account from the facility's operating fund account for any negative resident balances being paid with trust fund money. Residents who are allowed to spend more money than their current balance cannot use trust account funds to pay their debts; therefore, it becomes an operational expense;

(vi). provide a detailed statement of account balance to the resident in a confidential manner;

(vii). reconcile the trust account after receipt of the monthly bank statement:

[a]. add all deposits and deduct all withdrawals to each individual ledger to determine each resident's current balance;

[b]. total current month's positive balances for all resident ledgers, including balances carried forward from previous months which have had no transactions in the current month;

[c]. compare this total to the reconciled bank balance;

[d]. investigate and resolve any discrepancies between the bank and the resident ledger.

3. Income and Wages Received

a. The facility shall ensure employers adhere to the signed employer's work agreement by verifying rates of pay, hours worked and pay received by the resident for each pay period worked.

b. The facility shall ensure that the resident is paid by the employer by either a manual check sent directly to the facility or direct deposit to the resident trust account at the facility.

c. Residents shall not be allowed to receive payment from the employer via a pay card (pre-paid credit and/or ATM card) issued to the resident.

d. The facility shall process all personal funds received on behalf of the residents, issue pre-numbered receipts for funds and post receipts to the resident's account indicating receipt number.

e. Funds received shall be deposited daily (within 24 hours with the exception of weekends and holidays) into a fiduciary account held in trust for the residents and designated specifically as "Resident Trust Account." Credits shall be posted to the resident ledger within two business days.

f. Sensitive banking transactions involving the facility banking information and resident shall be handled directly between the facility and the employer, not between the resident and the employer.

4. Expenses and Withdrawals

a. All withdrawals or expenditures by a resident shall be documented by a withdrawal request form, signed and dated by the resident and document approval or denial of request by facility personnel. Withdrawals/expenditures shall be posted to the resident ledgers at least weekly with an adequate description relating to all transactions.

b. As one of the goals of a judicial agency referral residential program is to provide residents with the opportunity to accumulate savings as they prepare for reentry, facility managers have a fiduciary responsibility to set limitations on spending to maximize the potential savings of a resident.

c. Facilities shall develop procedures that set limitations and/or spending limits on resident purchases from canteen/commissary operations that encourage the resident to maximize on the opportunity to accumulate savings prior to release from the program.

5. Deductions

a. Residents shall be charged a daily rate not to exceed \$62.50 per day for services provided by the facility which includes room and board, transportation, education and all other necessary services. Medical and mental health services may be the responsibility of the resident. However, a lack of funds shall not interfere with the resident receiving these services. The resident shall not be charged for any additional costs other than those authorized in this document. Documentation of all deductions shall be maintained in each resident's file.

6. Other Deductions Allowed

a. Allowance. The facility shall develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents should be encouraged to refrain from unnecessary purchases in order that they may be able to accrue savings to be available to them upon completion of the program.

b. Support of the Resident's Dependents. The resident and facility shall mutually agree upon the amount to be sent to dependents. This agreement and authorization shall be in writing.

c. Legal Judgments. If there is a legal judgment of support, that judgment shall suffice as written authorization to disburse the money.

d. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing or reduced to judgment (including victim restitution) and shall reflect the schedule by which the resident wishes the debt to be repaid. The facility shall ensure that payment of this type debt is legitimate.

e. Canteen/commissary items shall be priced at a reasonable cost to residents. Contractors that operate a canteen shall provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

L. Sexual Assault and Sexual Misconduct

1. Prohibited Conduct: Sexual Contact between Staff, Civilians and Residents

a. There is no consensual sex in a custodial or supervisory relationship. Any sexual assault, sexual misconduct or sexual coercion between staff, civilians and residents is inconsistent with professional, ethical principles and department regulations. Acts of sexual assault, sexual misconduct or sexual coercion by staff or civilians against residents under their supervision is a violation of R.S. 14:134 et seq., subject to criminal prosecution. Retaliation against individuals because of their involvement in the reporting or investigation of sexual assault, sexual misconduct or sexual coercion is strictly prohibited.

2. Facility Policy

a. The facility shall have written policies and procedures for the prevention, detection, response, reporting and investigating of alleged and substantiated sexual assaults. Facility investigative reports of such allegations shall be submitted to the judicial agency which referred the resident to the facility.

M. Department of Public Safety and Corrections Facility Access

1. Compliance Monitoring

a. In accordance with R.S. 40:2852, all judicial agency referral residential facilities shall be regulated by rules adopted and enforced by the Department of Public Safety and Corrections for the operation of such facilities. In order to fulfill this mission, the department must have the ability to inspect the facility on a scheduled or random basis. The inspections shall include but not be limited to:

- i. review of ACA files;
- ii. review of log books;
- iii. resident employment status;
- iv. quality of life issues;
- v. resident financial information and any

information necessary to ensure compliance with both ACA standards and the standard operating procedures for judicial agency referral residential facilities.

2. Access to DPSC Staff

a. The Division of Probation and Parole shall have access as necessary to any residents on probation in the program to ensure compliance with conditions of probation. This includes the need for regular contacts, random drug screening and any other duties necessary to determine that the resident is abiding by the conditions of their probation.

b. The DPSC shall have access to the facility at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 37:

§1305. Physical Plant

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:

§1307. Facility Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:

§1309. Facility Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:668 (April 2007), repealed LR 37:

§1311. Resident Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:

§1313. Employment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:

§1315. Community Involvement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), LR

§1317. Resident Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), LR

§1319. Resident Discipline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), LR

§1321. Resident Personal Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:671 (April 2007), repealed LR 37:

James M. Le Blanc
Secretary

1105#017

DECLARATION OF EMERGENCY

Department of Treasury Office of the Treasurer

Permissible Investments (LAC 71:I.501)

The Department of Treasury, Office of the Treasurer has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt LAC 71:I Section 501, Public Funds, Permissible Investments. The Emergency Rule effective April 25, 2011, will remain in effect for a period of 120 days.

The Emergency Rule is necessary to allow the Investment Division of the Department of the Treasury to take advantage of additional direct obligations of a U.S. government agency, instrumentality or government-sponsored enterprise. There are now fifteen such entities authorized for investment obligations. This Emergency Rule is necessary in order to take advantage of all permissible investments and maximize its returns on investments. A delay in promulgating rules could cause the State of Louisiana to experience possible financial loss.

Title 71

TREASURY—PUBLIC FUNDS

Part 1. Public Funds

Chapter 5. Permissible Investments

§501. U.S. Government Agency Obligations

A. Pursuant to R.S. 49:327(B)(1)(b), obligations of or obligations guaranteed by, any of the following agencies, instrumentalities, or government-sponsored entities of the United States Government, or their successor agencies, universally referred to in the investment community as "agency securities," shall be eligible for investment by the treasurer:

1. Government National Mortgage Association (GinnieMae, GNMA);
2. Federal Agriculture Mortgage Corporation (FAMC);
3. Farm Credit Financial Assistance Corporation (FCFAC);
4. Farm Credit System Banks (FFCB);
5. Farmers Home Administration (FmHA);
6. Federal Home Loan Banks (FHLB);
7. Federal Home Loan Mortgage (FreddieMac, FHLMC);
8. Financing Corporation (FICO);
9. Federal Land Bank Bonds (FLBB);
10. Federal National Mortgage Corporation (FannieMae, FNMA);
11. Resolution Funding Corporation (REFCO);
12. Resolution Funding Corporation (REFCO);
13. Small Business Administration (SBA);
14. Tennessee Valley Authority (TVA);
15. U.S. Postal Service (USPS);

B. The securities named above as being issued by each agency are illustrative only. Since agencies periodically issue a new form of security with the similar guarantees, any such guaranteed security issued by the above referenced agencies shall be eligible for investment by the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), repromulgated LR 29:192 (February 2003), amended LR 37:

John Kennedy
State Treasurer

1105#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fisheries Opening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on October 7, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby opens commercial fishing in that portion of state inside waters from the eastern shore of Southwest Pass of the Mississippi River eastward to the southern shore of North Pass of the Mississippi River except for the following areas: Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and 89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and 89 degrees 23 minutes 00 seconds west longitude, and those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass westward to 89 degrees 15 minutes 25 seconds west longitude, and those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass westward to 89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and 89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters west of the western shore of South Pass south of 28 degrees 59 minutes 40 seconds north latitude bounded by 28 degrees 59 minutes 15 seconds north latitude and 89 degrees 08 minutes 15 seconds west longitude, and 28 degrees 58 minutes 20 seconds north latitude and 89 degrees 10 minutes 00 seconds

west longitude, and 28 degrees 59 minutes 01 seconds north latitude and 89 degrees 11 minutes 00 seconds west longitude, and 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters east of the eastern shore of South Pass and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and 89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and 89 degrees 08 minutes 00 seconds west longitude, and those waters adjacent to but not including Northeast Pass and Southeast Pass and bounded by 29 degrees 08 minutes 35 seconds north latitude and 89 degrees 04 minutes 20 seconds west longitude, and 29 degrees 08 minutes 15 seconds north latitude and 89 degrees 02 minutes 10 seconds west longitude, and 29 degrees 04 minutes 50 seconds north latitude and 89 degrees 04 minutes 10 seconds west longitude, and 29 degrees 05 minutes 30 seconds north latitude and 89 degrees 05 minutes 10 seconds west longitude, and those waters south and west of Pass-a-Loutre and east of 89 degrees 05 minutes 35 seconds west longitude bounded by 29 degrees 11 minutes 25 seconds north latitude and 89 degrees 03 minutes 30 seconds west longitude, and 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 02 minutes 25 seconds west longitude, and 29 degrees 14 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, and 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, and those waters south of North Pass bounded by 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 02 minutes 55 seconds west longitude, and 29 degrees 12 minutes 35 seconds north latitude and 89 degrees 01 minutes 05 seconds west longitude, and 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 01 minutes 10 seconds west longitude, and 29 degrees 11 minutes 10 seconds north latitude and 89 degrees 02 minutes 00 seconds west longitude effective immediately April 11, 2011.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that this portion of state inside waters shall open to commercial fishing on April 11, 2011.

Robert J. Barham
Secretary

1105#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Greater Amberjack Commercial Season Closure

The commercial season for the harvest of greater amberjack in Louisiana state waters will close effective 12:01 a.m. on June 18, 2011. The secretary has been informed that the commercial season for greater amberjack

in the federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on June 18, 2011, and will remain closed until 12:01 a.m. January 1, 2012.

In accordance with the provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 6, 2011 to modify opening and closing dates of 2011-2012 commercial reef fish seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the seasons have been closed in adjacent federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fisheries for greater amberjack in Louisiana waters will close at 12:01 a.m. on June 18, 2011, and remain closed until 12:01 a.m., January 1, 2012. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell greater amberjack whether within or without Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing greater amberjack taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries that the commercial greater amberjack season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on June 18, 2011, and the season will remain closed until 12:01 a.m. January 1, 2012. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of the species in the long term.

Robert J. Barham
Secretary

1105#063

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Greater Amberjack Recreational Season Closure

The recreational season for the harvest of greater amberjack in Louisiana state waters is currently open. The Secretary has been informed that the recreational season for greater amberjack in the federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on June 1, 2011 at which time the season will remain closed until 12:01 a.m. on August 1, 2011, when the season is scheduled to re-open in federal waters.

In accordance with the emergency provisions of R.S. 49:953, which allows the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the

commission in its resolution of January 6, 2011 to modify opening and closing dates of 2011-2012 recreational greater amberjack seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the season dates have been modified in adjacent federal waters, and that NOAA Fisheries upon recommendation from the Gulf of Mexico Fishery Management Council requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The recreational fishery for greater amberjack in Louisiana waters will close at 12:01 a.m. on June 1, 2011, and remain closed until 12:01 a.m. on August 1, 2011. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries, upon recommendation from the Gulf of Mexico Fishery Management Council that the recreational greater amberjack season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on Wednesday, June 1, 2011 and will remain closed until 12:01 a.m. on Monday, August 1, 2011. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement of the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

1105#062

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately May 5, 2011, in the following areas:

Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and 89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and 89 degrees 23 minutes 00 seconds west longitude, and those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude, and those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and 89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west

longitude, and those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and 89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and 89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and 89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and 89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and 89 degrees 08 minutes 00 seconds west longitude, and those waters adjacent to but not including Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and 89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and 89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and 89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and 89 degrees 05 minutes 10 seconds west longitude, and those waters south and west of Pass a Loutre of the Mississippi River and east of 89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and 89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 14 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, and those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and 89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and 89 degrees 02 minutes 00 seconds west longitude, and those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west

longitude westward to 89 degrees 57 minutes 00 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to 89 degrees 57 minutes 00 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries upon notification to the Chairman of the Wildlife and Fisheries Commission to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Stephen W. Sagrera
Chairman

1105#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on October 7, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens recreational and commercial fishing in that portion of state inside and outside waters near Grand Terre Island and Four

Bayou Pass bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude and 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude and 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 57 minutes 30 seconds west longitude except for the area bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and opens commercial fishing in that portion of state inside waters in the upper Barataria Basin south of 29 degrees 30 minutes 00 seconds north latitude and north of 29 degrees 26 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway except for the area bounded by the following coordinates: 1) 29 degrees 29 minutes 00 seconds north latitude and 89 degrees 50 minutes 00 seconds west longitude, 2) 29 degrees 26 minutes 00 seconds north latitude and 89 degrees 50 minutes 00 seconds west longitude, 3) 29 degrees 26 minutes 00 seconds north latitude and 89 degrees 57 minutes 00 seconds west longitude, 4) 29 degrees 29 minutes 00 seconds north latitude and 89 degrees 57 minutes 00 seconds west longitude effective immediately April 26, 2011.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. These areas were previously opened to recreational and charter boat angling and the Secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing on April 26, 2011, however, this reopening does not include the harvest of species closed by season, including shrimp and certain finfish and does not include the commercial harvest of oysters, as this activity is regulated by Louisiana Department of Health and Hospitals.

Robert J. Barham
Secretary

1105#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Red Snapper Recreational Season Closure

The recreational season for the harvest of red snapper in Louisiana state waters has previously been set to open at

12:01 a.m. June 1, 2011. The season is hereby established to close effective 12:01 a.m. on July 19, 2011. The secretary has been informed that the recreational season for red snapper in the federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on July 19, 2011, and will remain closed until 12:01 a.m., June 1, 2012, when the season is scheduled to re-open in both state and federal waters.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 6, 2011 to modify opening and closing dates of 2011 recreational red snapper seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the season dates have been modified in adjacent federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The recreational fishery for red snapper in Louisiana waters will close at 12:01 a.m. on July 19, 2011, and remain closed until 12:01 a.m., June 1, 2012. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational red snapper season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on July 19, 2011, and the season will remain closed until 12:01 a.m., June 1, 2012. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

1105#064

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Special Shrimp Season in Portion of State Inside Waters

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the right to set special shrimp seasons for all or part of the state waters based upon the best biological and technical data presented to the commission which indicates that marketable shrimp in sufficient quantities are available for harvest, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on December 2, 2010 which authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally

impact developing brown shrimp populations, the secretary hereby declares:

That portion of state inside waters from the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the channel red buoy line westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island shall open to shrimping at 6:00 am May 6, 2011.

Recent biological samples taken by Office of Fisheries biologists in that portion of state inside waters to open indicate that marketable shrimp in sufficient quantities are available for harvest and high river stages predicted for the Atchafalaya River may lead to considerably large movements of white shrimp populations from these waters into offshore waters prior to the effective date of the spring inshore shrimp season set by the Wildlife and Fisheries Commission. These inside waters shall remain open to shrimping until further notice.

Robert J. Barham
Secretary

1105#014

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Opening Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2011 Spring Shrimp Season in Louisiana state waters to open as follows:

That portion of Shrimp Management Zone 1 from the Mississippi/Louisiana state line to the southern shore of the Mississippi River Gulf Outlet to open at 6 a.m., May 23, 2011 and that portion of Shrimp Management Zone 1 from the southern shore of the Mississippi River Gulf Outlet to the eastern shore of South Pass of the Mississippi River to open at 6 a.m., May 16, 2011; and

That portion of Shrimp Management Zone 2 from the eastern shore of South Pass of the Mississippi River to the eastern shore of Bayou Lafourche to open at 6 a.m., May 16, 2011 and that portion of Shrimp Management Zone 2 from the eastern shore of Bayou Lafourche to the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to open at 6:00 a.m., May 13, 2011; and

Shrimp Management Zone 3 from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line, to open at 6 a.m., May 16, 2011.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries upon

notification to the Chairman of the Wildlife and Fisheries Commission to open any closed area of inside waters based upon biological and technical data or threats to marketable size shrimp posed by the USCOE operation of the Bonnet Carre spillway or Morganza spillway, and delay the opening of, or close, the 2011 spring inshore shrimp season if biological and technical data indicate the presence of significant numbers of small, unmarketable size brown shrimp; and to close any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data

indicate the need to do so, or enforcement problems develop. The secretary is further granted the authority to open any area, or re-open any previously closed area, of inside waters based upon biological and technical data upon notification to the Chairman of the Wildlife and Fisheries Commission.

Stephen W. Sagrera
Chairman

1105#026

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Seed Commission

Laboratory Testing and Seed Sampling Fees (LAC 7:XIII.113)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, is amending this regulation to increase fees for certain laboratory analysis currently offered by the department and to provide additional services. The department, through its seed lab, currently provides laboratory testing of seeds and seed mixtures to farmers, growers and individuals who request a lab analyses. These requests are voluntarily made by the farmer, grower or individual and the service is provided over and above the regulatory function of the department in regard to seed. The seed lab is the only lab, public or private, in the state that provide these services. The cost of the tests has continued to increase to the point that the cost of the tests exceeds the fees being charged. A survey of 23 other states determined that the department is charging 15 to 50 percent less than any of these other states. The amendments adjust certain existing laboratory testing fees to help recover the actual cost of the tests. Additional lab testing fees and a fee for the taking of samples by departmental employees are being added to accommodate requests for these services by farmers, growers, and other persons requesting these services.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§113. License Fee; Laboratory and Sampling Fees

A. The annual fee for a seed dealer's license shall be \$100.

B. The following laboratory and sampling fees shall be applicable to all seed testing conducted by this department:

1. standard germination test only, purity test only or noxious weed examination only: \$10 each (except grasses and seed containing high inert: \$20 each);
2. complete test (purity and germination): \$17.50 each (except grasses and seed containing higher inert: \$30 each);
3. accelerated aging: \$15 each;
4. Texas cool test: \$20 each;
5. tetrazolium: \$20 each;
6. examination of 4-pound rice seed sample for presence of red rice: \$10;
7. varietal purity \$12;
8. herbicide bioassay: \$25;
9. seed mixtures:

- a. purity only: \$10 for first two components; \$5 for each additional component;
- b. germination only: \$10 for first two components; \$5 for each additional component;
- c. complete test (purity, germination, noxious weed exam): \$10 per component;
10. seed count per pound: \$5;
11. service sample taken by departmental inspector: \$15 per sample; and
12. priority sample: \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010), LR 37:1373 (May 2011).

Mike Strain, DVM
Commissioner

1105#060

RULE

Department of Children and Family Services Division of Programs

Child Care Assistance Program—Employment and Training (E and T) Hours (LAC 67:III.5103 and 5105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services (DCFS) has amended the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 12, Child Care Assistance Program (CCAP), Chapter 51, Section 5103 and Section 5105. Adoption is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

The department finds it necessary to increase the number of hours participants must work or attend a job training or educational program and to reduce the maximum income limit for eligibility which is based on a percentage of the State Median Income (SMI). This aligns with the department's requirement to provide core services where they are most needed.

Section 5103 has been amended to increase the required number of countable Employment and Training (E and T) hours a Training or Employment Mandatory Participant (TEMP) must work or attend a job training or an educational program, from a minimum average of 25 hours per week to a minimum average of 30 hours per week, and to reduce the maximum income limit from 75 percent of the SMI to 65 percent SMI in order for clients to be eligible for CCAP.

Section 5105 has been amended to allow the Secretary of DCFS to authorize an application "freeze" based on the lack of available child care funds to operate CCAP.

Title 67
SOCIAL SERVICES

Part III. Economic Stability and Self-Sufficiency

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

**Subchapter A. Administration, Conditions of Eligibility,
and Funding**

§5103. Conditions of Eligibility

A. - B.3. ...

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 April 1, 2003, the required minimum average of 30 activity hours per week.

5. Household income does not exceed 65 percent of the state median income for a household of the same size. Income is defined as:

B.5.a. - G. ...

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 36:1278 (June 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:1374 (May 2011).

§5105. Funding Availability

A. - A.3.a. ...

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).

Ruth Johnson
Secretary

1105#071

RULE

**Department of Civil Service
Board of Ethics**

Local Government Lobbying (LAC 52:I.Chapter 23)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has amended the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Act 1 of the 2008 First Special Legislative Session and Act 472 of the 2008 Regular Legislative Session.

Title 52
ETHICS

Part I. Board of Ethics

Chapter 23. Lobbying Local Government

§2301. General

A. The Lobbying Local Government Act provides that the board shall administer and enforce the provisions of R.S. 33:9661 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1374 (May 2011).

§2303. Registration and Reporting Forms

A. The staff shall prepare and provide, upon request, the electronic forms for the registration and reporting of local government lobbyists. The forms used shall be provided electronically on the lobbyist online filing system at www.ethics.state.la.us.

B. No registration, report or designation filed by a lobbyist or other person shall be filed with the board unless the registration, report or designation is on the proper electronic form promulgated by the board in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1374 (May 2011).

§2305. Registration and Reporting; Dating, Numbering and Filing

A. The staff shall establish a procedure for the dating, indexing, and filing of all lobbyist registrations, lobbyist disclosure reports, designations, and employer/principal disclosure reports received by the board through the lobbyist online filing system.

B. The method of determining the date of filing shall be as provided in R.S. 42:1157.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1374 (May 2011).

§2307. Definitions

A. The following definitions supplement those contained in R.S. 33:9662 et seq.

Aggregate—the total amount of expenditures made on local government officials within the calendar year.

Employer—any person which employs an individual for the purpose of lobbying.

Principal—any person who retains the services of a lobbyist to represent its interests.

Reportable Expenditure—an expenditure which is required to be reported according to R.S. 33:9666.

Schedule A—refers to part of the promulgated electronic expenditure report form which is used to report the name local government official, his spouse or minor child, his local government agency and the amount spent on the specific individual when such information is required by R.S. 33:9666.

Schedule B—refers to part of the promulgated expenditure report form which is used to report the name of the group or groups of persons invited to a function, the date and location of the function and expenditures made in connection with the function when such information is required by R.S. 33:9666(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2309. Registration

A. Only an individual who has reached the age of majority may register as a lobbyist.

B. A lobbyist shall register as an local government lobbyist with the board through the use of the lobbying online filing system forms provided by the board at its website: www.ethics.state.la.us, within five days of making expenditures of \$500 or more on local government officials in a calendar year for the purpose of lobbying.

C. The individual filing the local government lobbyist registration with the board shall forward to the board an affidavit expressing his or her intent to register as a local government lobbyist in accordance with the provisions of R.S. 33:9661 et seq. If the affidavit confirming the lobbyists willingness to register as a lobbyist is not received within 30 days of the lobbyists registration, the registration will be considered null and void.

D. Any individual who does not make expenditures of \$500 or more on local government officials but who registers as a local government lobbyist with the board shall file expenditure reports as required by the local Government Lobbying Act and shall be liable for any late fees assessed for the late filing of a required report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2311. Reporting; in General

A. A local government lobbyist shall file the required expenditure reports with the board through the use of the lobbying online filing system forms provided by the board at its website: www.ethics.state.la.us.

B. The following are reportable expenditures under R.S. 33:9661 et seq.:

1. the amount spent to purchase food or drink on behalf of an individual local government official;

2. the amount spent on the value of a ticket or other fee or payment made in connection with a civic, non-profit, educational, or political event as permitted by R.S. 42:1123(13).

C. A reportable expenditure should be reported by the lobbyist who would be required to account for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's or the principal's trade or business.

D. Any expenditure made by a lobbyist on a local government official shall be considered a reportable expenditure, regardless of a pre-existing personal or familial relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2313. Reporting; Additional Disclosure Requirements under R.S. 33:9661 et seq.

A. Any expenditure made in connection with a civic, non-profit, educational, or political event as permitted by R.S. 42:1123(13) shall be included in calculating the aggregate amount spent on an local government official during the reporting period.

B. Any expenditure subject to reporting under R.S. 33:9666(E) shall not be included in calculating the aggregate amount spent on an individual local governmental official for purposes of the reporting required by R.S. 33:9666(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2315. Reporting; Additional Disclosure Requirements under R.S. 33:9666(E)

A. If more than 25 local governmental officials are invited to a reception, social gathering or other function during a reporting period, then R.S. 33:9666(E) requires that the following information be disclosed on Schedule B of the expenditure report:

1. the name of the group or groups of persons invited to the function;
2. the date of which the function was held;
3. the location of the function, including the address of the function;
4. all expenditures made in connection with the function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2317. Election by Employer or Principal to Report for Lobbyists

A. An employer or principal may elect, pursuant to R.S. 33:9666(F)(2)(a), to file a single expenditure report for his lobbyists.

B. If an employer or principal elects to file such reports, an employer/principal designation must indicate to the board, through the use of the designated section of the online lobbying filing system at www.ethics.state.la.us by January 31. The designation shall be effective for one year and requires the employer or principal to report of all

expenditures made by all lobbyists representing its interests during that calendar year.

C. In the event an employer or principal files an expenditure report which does not include a statement of expenditures for one of its lobbyists, the report shall not be timely filed until a complete report disclosing the expenditures of all of its lobbyists is filed.

D. Late fees shall continue to accumulate until a complete report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1375 (May 2011).

§2319. Expenditures Made Directly by the Principal or Employer

A. An expenditure made directly by an employer or principal in connection with a reception, social gathering, or other function shall be attributed to and reported by the lobbyist who attends the function. If more than one lobbyist attends the function, then the total amount spent by the employer or principal on the function shall be attributed in equal portions to the lobbyists who attend.

B. If a lobbyist is not present at the time an expenditure is made by an employer or principal, a lobbyist who represents the employer or principal's interests must report the expenditure.

C. An employer or principal who makes such an expenditure is required to provide the following information to the lobbyist no later than two business days after the close of each reporting period:

1. the total amount of the expenditure;
2. the amount of the expenditure that has been attributed to the lobbyist and which must be reported by the lobbyist;
3. the nature of the expenditure;
4. the names of the local government officials involved; and
5. the agencies of the local government officials involved.

D. Failure by the employer or principal to provide the necessary information to its lobbyist regarding such expenditure will cause the employer or principal to be required to register and report as a lobbyist and may subject the employer or principal to penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:9661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 37:1376 (May 2011).

Kathleen M. Allen
Ethics Administrator

1105#068

RULE

**Department of Civil Service
Board of Ethics**

Statements Filed Pursuant to Section 1111(E) of the
Code of Governmental Ethics (LAC 52:I.1303)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil

Service, Louisiana Board of Ethics, has amended the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions (R.S. 42:1111(E)(2)(a)).

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 13. Records and Reports

§1303. Statements Filed Pursuant to Section 1111(E) of the Code of Governmental Ethics

A. Statements filed pursuant to Section 1111(E) of the Code of Governmental Ethics shall:

1. be made under oath;
2. be filed with the board prior to or within 10 days after initial assistance is rendered; and
3. contain:
 - a. the name and address of the elected official;
 - b. the name and address of the person employing or retaining the official to perform the services;
 - c. a description of the nature of the work and the amount of the compensation for services rendered or to be rendered;
 - d. a brief description of the transaction in reference to which services are rendered or to be rendered; and
 - e. the date of initial assistance rendered.

B. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 37:1376 (May 2011).

Kathleen M. Allen
Ethics Administrator

1105#069

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Board of Director
Composition (LAC 28:CXXXIX.2101)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §2101. Board of Director Composition. These policy changes require that the bulletin be updated to be in compliance with state law and institute new procedures for the voluntary surrender of charters. This change was asked for by the Board of Elementary and Secondary Education. These revisions clarify board membership rules for charter management organizations operating schools in multiple parishes. The Rule will require that at least 60 percent of the board membership reside in parishes in which the board operates and that there shall be equal representation from each community to the greatest extent possible. The Rules will guide charter school operators seeking to expand their presence beyond a single parish. The rules will guide charter school authorizers' oversight and authorizing responsibilities for nonprofits and management organizations that seek to expand their presence in the state.

Title 28
EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 21. Charter School Governance

§2101. Board of Director Composition

A. - D.2....

3. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. Community, for the purposes of this paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for Type 2 charter schools, any parish that is included in the charter school's attendance zone. No fewer than 60 percent of the members of the board of directors of any charter operator that operates multiple schools in different communities shall reside in the communities in which the charter schools are located, with equal representation from each community to the greatest extent possible.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), 37:1377 (May 2011).

Catherine R. Pozniak
Executive Director

1105#045

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.Chapters 9, 13, 15, and 17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District*: Chapters 9, 13, 15, and 17. The proposed policy aligns the Recovery School District with *Bulletin 741—Louisiana Handbook for School Administrators*, and outlines the fiscal and internal management of the Recovery School District.

Chapter 9 addresses personnel issues, including certification requirements as set forth in Bulletin 741 and *Bulletin 126—Non-discrimination in Recruitment, Hiring, Promotion, Evaluation, Discipline, Retention, and Dismissal*. Chapter 9 also establishes that the RSD will maximize professional development opportunities for all employees.

Chapter 13 describes the RSD's jurisdictional responsibility for the maintenance and repair of school facilities placed in the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7. Chapter 13 also addresses the use of RSD-controlled property by charter operators and the responsibilities of charter operators for maintaining building assets.

Chapter 15 addresses community involvement, including communication between schools and community

stakeholders, and outlines processes to provide opportunities for parent/community engagement and participation.

Chapter 17 addresses the evaluation of student, school and district progress by means of performance measures as approved by BESE. Chapter 17 establishes procedures for corrective action through data-driven, research-based procedures proven successful with similar populations of students in order to improve student achievement.

Title 28
EDUCATION

Part CXLV. Bulletin 129—The Recovery School District

Chapter 9. Personnel

§901. Certification of Personnel

A. For schools directly operated by the RSD, and those schools operated by the RSD in partnership with a university, those schools' personnel shall meet the certification requirements set forth in *Bulletin 741—Louisiana Handbook for School Administrators* (public schools).

B. For charter schools operating within the RSD, the charter operator shall meet the certification requirements of its instructional staff, for its type of charter, as set forth in *Bulletin 126—Charter Schools*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:3981, and R.S. 17:3991(C)(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1377 (May 2011).

§903. Non-Discrimination

A. The RSD shall refrain from any manner of discrimination prohibited by state and federal law in all personnel matters, including but not limited to, recruitment, hiring, promotion, evaluation, discipline, retention, and dismissal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1377 (May 2011).

§905. Professional Development

A. The RSD shall maximize opportunities for professional development for all employees it employs directly, as well as those employees of the charter operators and university partnerships under the RSD's jurisdiction.

B. Prior to the start of each school year, the RSD must facilitate professional development for personnel in all schools that are beginning their first year of operation under the RSD. The professional development should address the expectations and performance objectives for the school, as determined by RSD administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1377 (May 2011).

Chapter 13. Property Management

§1301. Jurisdictional Responsibility for the

Maintenance and Repair of School Facilities

A. The RSD shall have the right to use any school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the school prior to its placement in the recovery school district

and shall have access to such additional facilities as are typically available to the school, its students, and faculty and staff prior to its placement in the RSD.

B. The use of schools and facilities by the RSD shall be unrestricted except that in the case of the transfer of schools pursuant to R.S. 17:10.5, the RSD shall not be responsible for to provide for extensive repairs to the buildings or facilities that would be considered a capital expense. Such extensive repairs shall be provided by the governing authority of the city, parish, or other local public school system or other public entity from which the school facilities were transferred. The RSD shall be responsible only for the routine maintenance and repairs to buildings and facilities transferred pursuant to R.S. 17:10.5.

C. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, the RSD shall acquire with the transfer of the schools all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, except that the RSD may not transfer the ownership of the land or usable buildings constructed on the land to another, except as provided by R.S. 17:1990(B)(4)(b)(iv); save returning the land and such buildings to the stewardship of the prior system. The RSD may lease land or property, dispose of property other than the land as is necessary to properly manage the operation of the schools, rebuild school buildings, or renovate school buildings.

D. The RSD may sell, lease, or otherwise dispose of, at public or private sale, for cash or on terms of credit, any moveable property it owns that is not used and, in the judgment of the RSD, is not needed in the operation of any school or schools within its jurisdiction.

E. The RSD shall comply with all applicable state laws and regulations and all ordinances and regulations as may be enacted and adopted by the governing authority of the local governmental subdivision in which the property of the schools that RSD has jurisdiction over is located, including building and fire safety code regulations, until such property is returned to the prior system or otherwise disposed of by the RSD.

F. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, no building should be destroyed pursuant to the authority of the RSD unless destruction has been approved by the Office of Facility Planning of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:1990(B)(4), and R.S. 17:1990(B)(4)(b)(ii).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1377 (May 2011).

§1303. Maintenance of School Facilities

A. The RSD shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property transferred to it by the prior system are maintained in as good an order as when the right of use was acquired by the district.

B. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, a portion of all revenues available to the prior system which are dedicated to the repair, maintenance, or capital projects regarding a transferred

school whether such revenue is available from tax proceeds, was borrowed, bonded, or was otherwise acquired shall be transferred by the system to the RSD in an amount equal to the proportion that the number of schools transferred from such school system bears to the total number of schools operated by the school system during the school year immediately proceeding the school year in which the transfer occurred as provided by law and policy.

C. The RSD must meet all of the requirements regarding building maintenance and safety as required of other school districts in *Bulletin 741—Louisiana Handbook for School Administrators*.

D. The RSD must also meet all facility accessibility requirements set forth in *Bulletin 741—Louisiana Handbook for School Administrators*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:1990.B.(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1378 (May 2011).

§1305. RSD Schools Assigned to Charter Operators

A. The RSD can, at its discretion, offer the use of facilities transferred pursuant to R.S. 17:10.7 to charter operators. Facility assignments will be made by the RSD superintendent based on considerations that include building readiness, facility preference of charter school operators and community input. The RSD will enter into lease agreements for the use of school facilities.

B. Building assignments do not transfer ownership, but imposes certain responsibilities to the charter operator, including, but not limited to routine building maintenance and repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:1990.B.(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1378 (May 2011).

§1307. Responsibilities of Charter Operators

A. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*. Any assets acquired by the charter operator remain the property of the charter school.

B. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds.

C. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:3991.H.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1378 (May 2011).

Chapter 15. Community Involvement

§1501. Communication

A. For each school transferred to the RSD, the RSD shall ensure that each direct-operated school is included in the RSD community relations program. That program shall include a method of maintaining clear communication among interested parties, including the RSD; the chief executive officer of the governing authority of the relevant municipality or parish; the parents and guardians of children for whom the RSD is required to provide educational services; the respective school advisory council (see Subsection 1505.C, below); the city, parish, or other local public school board from which schools are transferred; and other relevant entities.

1. For each school under the direct operation of the RSD, the community relations program shall be such that the community is fully informed about the educational program, the strengths and needs of the school, and the services available to the school community.

2. The RSD shall regularly assess community needs and shall conduct public relations activities.

3. Each school shall maintain a continuous and specific program of community relations that involves the professional staff, the students, its school advisory council, and citizens.

4. Each school shall use its community resources in planning and conducting the total school program.

5. The RSD shall seek to enlist the cooperative assistance of all communications media within the community and to provide access to public information about the school, its policies, and activities.

6. Teachers shall make appropriate and effective use of community resources.

7. Each school shall seek parental involvement and support through communication between school and home.

8. Each school shall include in its school-community relations program a written plan for community/parent involvement.

B. The RSD shall require each school under its jurisdiction to notify the parent or legal guardian of every student, in writing, of the proper process and procedures to be followed in order to make a complaint or request information from the school or the RSD.

1. Such information shall include, at a minimum, the name, address, phone number, and email address of the appropriate person to contact at each step of the prescribed process or procedures. This information shall be updated, at least, annually. Such information shall be incorporated into any existing policy or policies, code of conduct, or student handbook of the RSD or of each school under its jurisdiction.

2. The RSD shall provide this information to parents or legal guardians at the start of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:10.B.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

§1503. Outreach

A. The statewide RSD advisory council to the state superintendent shall serve as a component of the RSD's community outreach.

B. To maximize community engagement, each school under the RSD's direct operation-is strongly encouraged to create an advisory council composed of members of the community it serves. The school administration shall meet with the school's advisory council on a regular basis.

1. The purpose of these meetings shall be threefold:

a. to provide the advisory council an opportunity make the school aware of its perspective on the school's operation and the needs of the community;

b. to allow the school to inform the advisory council of information about the school's staffing, budget, physical facilities, academic achievement, and planning; and

c. to facilitate two-way communication between the school and the advisory council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7 CA)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

§1507. Participation

A. All school advisory councils are strongly encouraged to make their meetings open to the public.

B. Within two weeks of each meeting of the school administration with its advisory council, the school shall prepare a written report summarizing the items discussed at the meeting, said report to be posted at the school and electronically on the Internet, as available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

Chapter 17. Evaluation of Student, School, and District Progress

§1701. Performance Measures

A. The RSD and all RSD schools shall participate in the Louisiana School, District, and State Accountability System as approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

§1703. Reporting

A. The academic progress of all RSD schools shall be reported along with the progress of all public schools in BESE's annual report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:10.7.C.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

§1705. Procedures for Academic Assistance

A. The RSD shall implement data-driven, research-based procedures proven successful with similar populations of students in order to improve student achievement.

B. The RSD is also subject to all applicable requirements of *Bulletin 111—The Louisiana School, District, and State Accountability System*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1379 (May 2011).

Catherine R. Pozniak
Executive Director

1105#044

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.337 and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators: §337. Written Policies and Procedures and §701. Maintenance and Use of System Records and Reports*. These policy revisions result from R.S. 44:411, and relate to the requirements for the retention and disposition of records.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B. ...

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 24. ...

25. a schedule for the retention and disposition of records. The schedule shall be approved by State Archives as required by R.S. 44:411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1380 (May 2011).

Chapter 7. Records and Reports

§701. Maintenance and Use of System Records and Reports

A. - D.2. ...

E. Each LEA/school shall maintain necessary records for the effective operation of the LEA/school. The LEA shall comply with the requirements of R.S. 44:411 regarding schedules for the retention of official records. Those records for which a formal retention schedule has not been executed shall be retained by the LEA for not less than three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:93; R.S. 17:411; R.S. 17:415.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 37:1380 (May 2011).

Catherine R. Pozniak
Executive Director

1105#043

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Classroom Management Training (LAC 28: CXV.337 and 1302)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators: §337. Written Policies and Procedures and §1302. Classroom Management Training for School Staff*. The revisions provide for pre-service and on-going grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development. The revisions also require local school districts to review discipline data from each school to determine what additional classroom management training and classroom support activities may be needed. These revisions reflect the enactment of R.S. 17:252 (D) School Master Plans for Supporting Student Behavior and Discipline, Act 136, of the 2010 Regular Legislative Session.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A - C.23. ...

24. pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriated school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development;

25. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7(29); R.S. 17:81; R.S.17:240; R.S. 17:100.8; R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1380 (May 2011).

Chapter 13. Discipline

§1302. Classroom Management Training for School Staff

A. The school master plans required of city, parish, and other local public school boards shall make provision for

pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011).

Catherine R. Pozniak
Executive Director

1105#041

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certificate Endorsements
(LAC 28:CXXXI.601)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §601. Introduction. The policy revision will require a grade of “C” in all coursework for add-on certification purposes. Current policy does not allow the Department of Education to accept any grade below a “C” in an approved undergraduate education program with the exception of coursework under the general education component. This will align add-on policy with undergraduate program policy.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 6. Endorsements to Existing Certificates §601. Introduction

A. Endorsement areas are permanent authorizations added to a teaching certificate. Upon comp requirements for an additional area of certification, as outlined in this bulletin, the holder of a valid Louisiana teaching certificate may have the certificate authorization extended to include the newly achieved qualifications. For endorsement purposes, the following notes apply.

1. When a generalized reference is made to a Praxis exam, this means the current applicable exam(s) in policy, with the current established passing score(s).

2. Semester hours earned to add certification areas and/or levels to an existing certificate cannot include repeat (or duplicate) coursework.

3. A National Board Certified (NBC) teacher with an existing Louisiana teaching certificate is eligible for the addition (add-on) or endorsement to his/her certificate of the corresponding area for which NBC is held.

4. All coursework used for add-on certification must be for regular credit and not of a remedial or developmental nature and no final grade below a “C” will be accepted for any add-on endorsement purposes.

B. A formal request for an additional authorization on a certificate must be directed to the Louisiana Department of Education, Division of Teacher Certification and Higher Education. For authorizations that require coursework, an official transcript from a regionally accredited institution must accompany the request. The final authority for approval of an additional authorization is the Louisiana Department of Education.

C. This Chapter has been divided into three Subchapters, as follows:

1. regular education level and area endorsements;
2. special education level and area endorsements; and
3. all other endorsement areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 37:1381 (May 2011).

Catherine R. Pozniak
Executive Director

1105#042

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Early Interventionist
(LAC 28:CXXXI.625)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §625. Requirements to add Early Interventionist Birth through Kindergarten. The policy revision will allow individuals who add-on Early Interventionist to their existing teaching certificates the certification to serve children with disabilities at the age levels of birth through kindergarten. Current early interventionist certification policy allows an individual to serve children with disabilities from birth through five years of age. Because the certification add-on policy was age specific and not grade specific there was no certified special education teacher to service children at the kindergarten level. This change in policy will provide greater flexibility for children with disabilities to be served by certified teachers.

**Title 28
EDUCATION**

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 6. Endorsements to Existing Certificates
Subchapter B. Special Education Level and Area Endorsements**

§625. Requirements to add Early Interventionist Birth through Kindergarten

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Early Childhood Education (#0020) and Education of Exceptional Children: Core Content Knowledge (#0353);
2. 18 credit hours that pertain to infants, toddlers, and preschoolers, as follows:
 - a. foundations in early childhood education and early intervention;
 - b. understanding and working with families of young children;
 - c. assessment in early intervention;
 - d. early intervention methods;
 - e. teaming, physical and medical management in early intervention;
 - f. communication and literacy in early intervention;
3. nine semester hours of reading coursework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:1382 (May 2011).

Catherine R. Pozniak
Executive Director

1105#040

RULE

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting
and Uniform Governmental Handbook
(LAC 28:XLI.301, 509, 701, 901,
903, 1101, 1105, and 1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*: §301. Explanation/General Information, §509. Account Groups, §701. Revenue Codes, §901. Object Codes, §903. Function Codes, §1101. Assets and Other Debit Codes, §1105. Fund Balance Codes, and 1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and

Charter Schools). The changes to Bulletin 1929 reflect the following:

1. additions and changes related to financial reporting by the department to the U.S. Department of Education;
2. additions and changes to allow uniform reporting in both the Student Information System (SIS) and the Profile of Education Personnel (PEP) due to required reporting for federal programs; and
3. additions and changes to allow for required financial reporting per Act 310 of the 2009 Regular Legislative Session regarding weighted student funding.

**Title 28
EDUCATION**

Part XLI. Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook

**Chapter 3. The Account Classification Structure
§301. Explanation/General Information**

A. This publication provides for classifying three basic types of financial activity: revenues and other sources of funds; expenditures and other uses of funds; and transactions affecting the balance sheet only. For each type of transaction, the specific account code is made up of a combination of classifications called *dimensions*. Each dimension describes one way of classifying financial activity. The dimensions applicable to each type of transaction are:

Revenues	Expenditures	Balance Sheet
Fund	Fund	Fund
Source	Object	Balance Sheet Accounts
	Function	

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:1506 (July 2010), LR 37:1382 (May 2011).

**Chapter 5. Fund Classifications
§509. Account Groups**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:464 (March 2000), repealed LR:37:1382 (May 2011).

Chapter 7. Classification of Revenues and Other Sources of Funds

§701. Revenue Codes

A. - D.4.e.vi. ...

vii. 4549 Title VI, Part B—Rural Education Achievement Program (REAP)—federal funds administered by the state to assist small, high-poverty rural school districts meet the mandates of No Child Left Behind. This revenue is normally a special revenue fund revenue.

f. - g. ...

h. 4570 Temporary Assistance for Needy Families (TANF)—federal funds administered by the State to assist needy families with children so that children can be cared for in their own homes; to reduce dependency by promoting job preparation, work, and marriage; to reduce and prevent out-of-wedlock pregnancies; and to encourage the formation and maintenance of two-parent families.

i. 4580 FEMA Disaster Relief—federal funds administered by the state to provide financial assistance to an LEA for repairs and/or rebuilding necessary after a natural disaster.

j. 4590 Other Restricted Grants through State—federal funds administered by the state other than those shown above.

D.5. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:464 (March 2000), amended LR 36:1509 (July 2010), LR 37:1382 (May 2011).

Chapter 9. Classification of Expenditures and Other Uses of Funds

§901. Object Codes

A. - D.5. ...

6. 250 Unemployment Compensation—amounts paid by the LEA to provide unemployment benefits for its employees.

7. 260 Worker's Compensation—amounts paid by the LEA to provide worker's compensation insurance and/or benefits for its employees. Salary payments for employees on worker's compensations should be charged to this code.

8. 270 Retiree Health Benefits—amounts paid by the LEA to provide health benefits for employees now retired and for whom benefits are paid.

9. 280 Severance Pay—amounts of unused leave paid by the LEA to its employees upon their retirement.

a. 281 Sick Leave Severance Pay—amount of unused sick leave paid by the LEA to its employees upon their retirement.

b. 282 Annual Leave Severance Pay—amount of unused annual leave paid by the LEA to its employees upon their retirement.

10. 290 Other Employee Benefits—employee benefits other than those classified above.

E. - E.4. ...

F. 400* Purchased Property Services—services purchased to operate, repair, maintain, and rent property owned or used by the LEA. These services are performed by persons other than LEA employees. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 410 Utility Services—expenditures for utility services other than energy services supplied by public or private organizations. Water and sewerage are included here. Phone and internet services are not included here, but are classified under object 530 Communications. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 411 Water/Sewerage—expenditures for water/sewerage utility services from a private or public utility company.

2. - 4.b ...

5. 450* Construction Services—expenditures for constructing, renovating and remodeling paid to contractors. This object code includes the installation of new phone lines or cable to provide internet access. This object is used only with function 4000 Facilities Acquisition and Construction Services.

6. 490 Other Purchased Property Services—purchased property services that are not classified above. Costs for

phone and internet services are not included here, but are included in object 530 Communications. This object code is used usually with function 2600 Operations and Maintenance of Plant Services.

G. - G.2.f ...

3. 530 Communications (Phone, Internet and Postage)—expenditure for services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes cell phone and voice communication services, telephone and voicemail; data communications services to establish or maintain computer-based communications, networking and internet services; video communications services to establish or maintain one-way or two-way video communications via satellite, cable, or other devices; postal communications services to establish or maintain postage machine rentals, postage, express delivery services, or couriers. Includes licenses and fees for services such as subscriptions to research materials over the Internet. Expenditures for software, both “downloaded” and “off-the-shelf” should be coded to object 615 or 735 (usually used with functions 2200 Instructional Staff Services, 2300 General Administration, 2400 School Administration, 2500 Business Services, or 2600 Operations and Maintenance of Plant Services).

4. - 8.c. ...

9. 590 Miscellaneous Purchased

Services—expenditures for purchased services not otherwise classified in the 300 Purchased Professional and Technical Services, 400 Purchased Property Services, or 500 Other Purchased Services series of objects. This object code is used with all functions, except 5000 Other Sources of Funds.

a. 595 Interagency Purchased Services—any inter-district payments other than tuition or transportation should be classified here. This code identifies other payments for services made between a school district and other governmental entities (used primarily with function 2000).

b. 596* Services Purchased from Another LEA Within the State—payments to another LEA within the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object code, purchased professional and technical services, or to this code, 596 should be used so that all inter-district payments can be eliminated when consolidating reports from multiple LEA's at state and federal levels. This code is used only with function 2000 Support Services.

c. 597* Services Purchased from Another LEA outside the State—payments to another LEA outside the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object codes or to this code, 597 Services Purchased from Another LEA within the state should be used so that all inter-district payments can be eliminated when consolidating reports at the federal level. This object code is used only with function 2000 Support Services.

H. - I.4. ...

5. 750 Intangible Assets—expenditures for acquiring intangible assets. Intangible assets include easements (the right to use land for a specific purpose), land use rights,

patents, and trademarks. (Computer software exceeding the capitalization threshold should be coded to Object 735 Technology Software.)

I.6. - K.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:468 (March 2000), amended LR 36:1516 (July 2010), LR 37:1383 (May 2011).

§903. Function Codes

A. - C.1.c. ...

2. 1200 Special Education Programs—specially designed instruction to meet the unique needs and abilities of disabled or gifted children during regular school day, extended day, and summer school.

a. 1210 Special Education—specifically designed instruction provided at no cost to the parents that meets the unique needs of a student with a disability. Special education includes instruction in the classroom, in the home, in hospitals, institutions and other settings, physical education, travel, training and career and technical education.

i. 1211 Special Education: Classroom Teacher—provides instruction to students with disabilities in a core academic subject or non-core subjects.

ii. 1212 Special Education: Inclusion Classroom Teacher—provides direct assistance to students with disabilities (e.g., interventions, reinforcement of content provided in the general education and/or segregated settings), but the students with disabilities receive their instruction on core academic subjects from a NCLB highly qualified general education teacher.

iii. 1213 Special Education: Paraprofessional Training Unit Teacher—provides instruction to students with disabilities with the support of two or more paraeducators based on the number of students in the class.

2.a.iv. - 4.h. ...

5. 1500 Special Programs—activities primarily for students having special needs. These programs include pre-kindergarten, culturally different students with learning disabilities, bilingual students, and special programs for other types of students.

a. 1510 No Child Left Behind (NCLB)—activities for economically and educationally deprived students whose background is so different from that of most other students that they need additional opportunities beyond those provided in the regular educational program.

b. 1520 English Language Acquisition Group (Title III)—activities for students from homes in which the English language is not the primary language spoken.

c. 1530 Pre-Kindergarten Programs—activities associated with children of any age span below kindergarten.

d. 1531 Head Start Program—activities associated with children attending Head Start programs in the local school districts.

e. 1590 Other—activities for students having special needs not included above.

6. ...

7. 1700 Community/Junior College Education Programs—deleted in the September 1999 revision; maintained only for historical purposes.

D. 2000 Support Services—support services provide administrative, technical (such as guidance and health), and logistical support to facilitate and enhance instruction. These

services exist as adjuncts for fulfilling the objectives of instruction, community services and enterprise programs, rather than as entities within themselves.

1. 2100* Pupil Support Services—activities designed to assess and improve the well-being of students and to supplement the teaching process.

a. 2110 Attendance and Social Work Services—activities designed to improve student attendance at school that attempt to prevent or solve student problems involving the home, the school, and the community.

i. 2111 Supervision of Attendance and Social Work Services—activities associated with directing, managing and supervising attendance and social work.

ii. 2112 Attendance Services—activities such as promptly identifying nonattendance patterns, promoting improved attitudes toward attendance, analyzing causes of nonattendance, acting early on nonattendance problems, and enforcing compulsory attendance laws. Specific activities may include truancy and local law enforcement services.

iii. 2113 Social Work Services—activities such as investigating and diagnosing student problems arising out of the home, school, or community; providing casework and group work services for the child, parent, or both; interpreting the problems of students for other staff members; and promoting modification of the circumstances surrounding the individual student and related to his or her problem (excludes special education services).

iv. - v. ...

b. 2120 Guidance Services—activities involving counseling with students and parents; consulting with other staff members on learning problems; evaluating the abilities of students; assisting students as they make their own educational and career plans and choices; assisting students in personal and social development; providing referral assistance; and working with other staff members in planning and conducting guidance programs for students.

i. 2121 Supervision of Guidance Services—activities associated with directing, managing and supervising guidance services.

ii. 2122 Counseling Services—activities concerned with the relationship among one or more counselors and one or more students as counselees, among students and students, and among counselors and other staff members. These activities are designed to help the student understand his or her educational, personal, and occupational strengths and limitations; relate his or her abilities, emotions, and aptitudes to educational and career opportunities; utilize his or her abilities in formulating realistic plans; and achieve satisfying personal and social development.

iii. 2124 Information Services—activities for disseminating educational, occupational, and personal social information to help acquaint students with the curriculum and with educational and career and technical opportunities and requirements. Such information might be provided directly to students through activities such as group or individual guidance, or it might be provided indirectly to students, through staff members or parents.

iv. 2125 Record Maintenance Services—activities for compiling, maintaining, and interpreting cumulative records of individual students, including systematic consideration of such factors as home and family background, physical and medical status, standardized test

results, personal and social development, and school performance.

v. 2126 Placement Services—activities that help place students in appropriate situations while they are in school. These placements could be educational situations, part-time employment while they are in school, and appropriate educational and occupational situations after they leave school. These activities also help ease the student's transition from one educational experience to another. The transition may require, for example, admissions counseling, referral services, assistance with records, and follow-up communications with employers.

vi. 2129 Other Guidance services—guidance services that cannot be classified above.

c. 2130 Health Services—physical and mental health services that are not direct instruction. Included are activities that provide students with appropriate medical, dental, and nursing services (excludes special education services).

i. 2131 Supervision of Health Services—activities associated with directing and managing health services.

ii. 2132 Medical Services—activities concerned with the physical and mental health of students, such as health appraisals, including screening for vision, communicable diseases, and hearing deficiencies; screening for psychiatric services, periodic health examinations; emergency injury and illness care; and communications with parents and medical officials (includes psychologists that are not special education).

iii. - v ...

d. 2140 Psychological and Educational Assessment Services—activities concerned with administering psychological tests and interpreting the results; gathering and interpreting information about student behavior; working with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests and behavioral evaluation; and planning and managing a program of psychological services, including psychological counseling for students, staff and parents (special education only).

d.i. - e.v. ...

f. 2160 Occupational Therapy and Related Services—services provided by a qualified occupational therapist to develop and enhance the independent physical functioning of students with disabilities. Occupational therapy services provided by schools are for educational purposes to enable a student with a disability to progress on his or her Individualized Education Program (IEP).

i. 2161 Occupational Therapist—assists students who have conditions that are mentally, physically, developmentally, or emotionally disabling. Occupational Therapists assist students to develop, recover, or maintain daily living and work skills.

g. 2165 Therapy—treatment of illness or disability.

i. 2166 Physical Therapy—services provided by a qualified physical therapist to develop and enhance the physical functioning of students with disabilities so the student can receive FAPE. Physical therapy services provided by schools are for education purposes to enable a student with a disability to progress on his/her IEP.

ii. 2167 Recreational Therapy—provides therapy to remediate functional activities, provide leisure education, for learning the skills related to leisure involvement, and help the child participate in recreation.

iii. 2168 Rehabilitation Therapy—services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability.

iv. 2169 Orientation and Mobility Specialist—services provided to blind and visually impaired students.

1.h. - 2.c.vi. ...

vii. 2239 Other Education Programs—activities associated with the professional development and training of instructional personnel for students in other programs, not identified above.

d. 2250 Library/Media Services—activities concerned with the use of all teaching and learning resources, including hardware and content materials. Educational media are defined as any devices, content materials, methods, or experiences used for teaching and learning purposes. These materials include printed and nonprinted sensory materials.

i. 2251 Supervision of Library/Media Services—activities concerned with directing, managing and supervising educational media services.

ii. 2252 School Library/Media Services—activities such as selecting, acquiring, preparing, cataloging, and circulating books and other printed materials; planning the use of the library by students, teachers and other members of the instructional staff; and guiding individuals in their use of library books, reference guides and materials, catalog materials, special collections and other materials, whether maintained separately or as a part of an instructional materials center. These activities include developing and acquiring library materials and operating library facilities. Textbooks are not charged to this function, but rather to function 1000 Instruction.

iii. 2259 Other Educational Media Services—educational media services other than those classified above.

e. 2290 Other Instructional Staff Services—services supporting the instructional staff not properly classified elsewhere in 2200 Instructional Staff Services.

D.3. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:474 (March 2000), amended LR 27:1684 (October 2001), LR 36:1522 (July 2010), LR 37:1383 (May 2011).

Chapter 11. Classification of Balance Sheet Accounts §1101. Assets and Other Debit Codes

A. ...

B. Current Assets—cash or anything that can be readily converted into cash.

1. 101 Cash in Bank—all funds on deposit with a bank or savings and loan institution in interest bearing and non-interest-bearing checking accounts.

2. 102 Cash on Hand—currency, coins, checks, postal and express money orders, and bankers' drafts on hand.

3. 103 Petty Cash—a sum of money set aside for the purpose of paying small obligations for which the issuance of a formal voucher and check would be too expensive and time-consuming.

4. 104 Change Cash—a sum of money set aside to provide change.

5. 105 Cash with Fiscal Agents—deposits with fiscal agents, such as commercial banks, for paying matured bonds and interest.

6. 111 Investments—securities and real estate held for producing income in the form of interest, dividends, rentals or lease payments. The account does not include capital assets used in LEA operations. Separate accounts for each category of investments may be maintained.

7. - 41. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:481 (March 2000), amended LR 36:1531 (July 2010), LR 37:1385 (May 2011).

§1105. Fund Balance Codes

A. - A.8. ...

9. 780 Unreserved-Designated Fund Balance—a designation representing that portion of the fund balance segregated to indicate that assets equal to the amount of the designation have been earmarked by the governing board or senior management for a bona fide purpose in the future, such as general contingencies or for equipment replacement.

10. 790 Nonspendable Fund Balance—amounts that are not in a spendable form (such as inventories and prepaid items) and other amounts that are legally or contractually required to be maintained intact (such as principal of a permanent fund).

11. 795 Restricted Fund Balance—amounts constrained to specific purposes by their providers such as grantors, bondholders, and higher levels of government, through constitutional provisions, or by enabling legislation.

12. 796 Committed Fund Balance—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level actions to remove or change the constraint.

13. 797 Assigned Fund Balance—amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority.

14. 798 Unassigned Fund Balance—amounts that are available for any purpose; these amounts are reported only in the general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001), repromulgated LR 34:1388 (July 2008), amended LR 36:1533 (July 2010), LR 37:1386 (May 2011).

Chapter 13. Personnel Requirements

§1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and Charter Schools)

A. Minimum qualifications, must meet one of the following:

1. a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;

2. a certified public accountant licensed in Louisiana;

3. a master's degree in public or business administration.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:434 (March 2007), amended LR 36:1533 (July 2010), LR 37:1386 (May 2011).

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1105#039

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Award Amount
(LAC 28:IV.1401)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, 3041.10-3041.15, 3042.1, and 3048.1). (SG11126R)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 14. Early Start Program

§1401. General Provisions

A. - D. ...

E. Award Amount

1. The Early Start Program will pay postsecondary institutions, except for campuses of the Louisiana Technical College beginning with the spring semester of 2011, \$100 per college credit hour, not to exceed \$300 per course, for each course in which a student enrolled in a Louisiana public high school is eligible to enroll.

2. Beginning with the spring semester of 2011, the Early Start Program will pay \$50 per credit hour, not to exceed \$150 per course, for students enrolled at campuses of the Louisiana Technical College.

3. The award amount shall not be paid on behalf of students enrolled in nonpublic high schools or in home school; however, beginning with the 2008-2009 academic year (college), the program allows participating eligible Louisiana postsecondary institutions to enroll eligible eleventh and twelfth grade Louisiana nonpublic high school

and home school students at the same rate as the award amount that funding is provided for public high school students at these institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 35:231 (February 2009), LR 37:1386 (May 2011).

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1105#004

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
John R. Justice Grant Program
(LAC 28:IV.Chapter 20)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, 3041.10-3041.15, 3042.1, 3048.1, 3048.5, and 3048.6). (SG11126R)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 20. John R. Justice Student Grant Program §2001. General Provisions

A. The John R. Justice Student Grant Program (JRJ Grant) is administered by the Louisiana Student Financial Assistance Commission (LASFAC) in accordance with a federal grant from the United States Department of Justice.

B. Description, History and Purpose. The JRJ Grant is administered in accordance with the federal John R. Justice Prosecutors and Defenders Incentive Act, 42 U.S.C.A. 3797cc-21, to encourage qualified lawyers to choose careers as public defenders and prosecutors and to continue in that service.

C. Effective Date. The JRJ Grant will be administered by LASFAC beginning with the 2010-2011 federal fiscal year.

D. Award Amount. Each calendar year, twelve prosecutors will receive awards of \$5,000 each. Each calendar year, six public defenders will receive awards of \$10,000 each. One public defender and two prosecutors will be selected for participation from each of the First, Second, Third, and Fifth Louisiana Circuit Court of Appeal Districts. Two public defenders and four prosecutors will be selected for participation from the Fourth Louisiana Circuit Court of Appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011).

§2003. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these

rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Adjusted Gross Income (AGI)—gross income minus any deductions allowed under the federal income tax code (Title 26, United States Code).

Eligible Loan—an educational loan which is not paid in full and which was made under either the Federal Stafford Loan, Federal Graduate PLUS Loan, Federal Consolidation Loan, or Federal Perkins Loan program.

Federal Fiscal Year—October 1 to the following September 30.

Full Time—works at least 30 hours per week as a prosecutor or defense attorney.

Least Ability to Pay—have the lowest differential between AGI and one hundred fifty percent of the poverty level for a family of the lawyer's size among eligible applicants.

Licensed—holding a current license to practice law in the state of Louisiana.

Poverty Level—poverty guidelines as issued by the United States Department of Health and Human Services.

Prosecutor—a lawyer who is a full-time employee of the state or of a unit of local government (including tribal government) who prosecutes criminal or juvenile delinquency cases at the state or unit of local government level (including supervision, education, or training of other persons prosecuting such cases).

Public Defender—a lawyer who:

a. is a full-time employee of the state or with a unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other persons providing such representation; or

b. who is a full-time employee of a nonprofit organization operating under a contract with the state or with a unit of local government who devotes substantially all of the employee's full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other persons providing such representation; or

c. who is employed as a full-time federal defense lawyer in a defender organization pursuant to 18 U.S.C.A. 2006A(g) that provides legal representation to indigent persons in criminal or juvenile delinquency cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011).

§2005. Eligibility

A. To establish eligibility, a lawyer must:

1. be employed full time as a public defender or prosecutor for at least one year as of December 31 of the year preceding the award; and

2. not be in default on any educational loan;

3. complete and submit an application by the deadline;

4. have the least ability to pay his student loans;

5. authorize LOSFA to access records held by any third party that will verify information provided on the application.

B. Upon notice from LOSFA that he must do so, the applicant must provide:

1. information necessary to substantiate information included on the application, including, but not limited to, the following:

a. paycheck stubs for the two months immediately preceding the application date; and

b. federal tax returns for the most recent tax year; and

c. statements from all student loan holders evidencing the required monthly payments on his student loans;

2. a letter from his current employer verifying that the employer is an eligible employing entity under the John R. Justice Prosecutors and Defenders Incentive Act and recommending the applicant for participation in the program;

3. a completed John R. Justice Student Loan Repayment Program Service Agreement to LOSFA by the deadline.

C. Qualified lawyers are required to apply for participation each year. Prior year recipients will be given priority for participation in the program in the second and third year of the service obligation, provided the recipient continues to meet the requirements of §2005.A.1-4 and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011).

§2007. Applicable Deadlines

A. Application Deadline

1. Applicants must complete and submit the on-line application each calendar year no later than the deadline published by LOSFA.

2. Applications received after the deadline will not be considered unless there are insufficient qualifying applications received by the deadline to make awards for all eighteen grants.

3. In the event there are insufficient applications to award 18 grants, a second deadline will be announced.

4. In the event 18 grants cannot be awarded after a second application deadline has passed, LOSFA shall inform LASFAC and distribute the available remaining funds as directed by LASFAC.

B. Documentation Deadline. An applicant from whom documentation is requested must provide the required documentation within 45 days from the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011).

§2009. Service Agreement

A. An applicant who has been selected for participation must complete a John R. Justice Student Loan Repayment Program Service Agreement prior to the disbursement of any funds to his student loan holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011).

§2011. Responsibilities of LOSFA

A. LOSFA shall:

1. evaluate documentation provided by applicants to substantiate the information provided on the application;

2. select program participants based on the documentation provided and the applicants' ability to pay student loans;

3. maintain program service agreements;

4. pay program funds to the program participant's eligible student loan holder with instructions that the funds are to be used to reduce the outstanding principal amount due on the loan(s);

5. maintain a secure database of all information collected on recipients and former recipients, including name, address, social security number, name of the institution(s) to which funds were disbursed, and amounts disbursed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011).

§2013. Responsibilities of LASFAC

A. LASFAC shall:

1. promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act and in accordance with a federal grant from the United States Department of Justice to administer the John R. Justice Prosecutors and Defenders Incentive Act, 42 U.S.C.A. 3797cc-21 in Louisiana;

2. upon being informed by LOSFA that 18 grants cannot be awarded after a second application deadline has passed, establish a formula for apportionment of available remaining funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011).

George Badge Eldredge
General Counsel

1105#003

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—GO Grant Summer Billing
(LAC 28:IV.1205)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended and re-promulgated the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, 17:3046-3046.2, R.S. 17:3048.1, R.S. 56:797.D(2).(SG11124R)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education**

Scholarship and Grant Programs

Chapter 12. Louisiana GO Grant

§1205. Application and Initial Eligibility

A. - B.4.c. ...

C. In order to receive a grant under this Chapter, an eligible student must be enrolled in an undergraduate program at an eligible Louisiana institution through the fourteenth class day for semester schools, or the ninth class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 37:1389 (May 2011).

George Badge Eldredge
General Counsel

1105#020

RULE

**Department of Environmental Quality
Office of the Secretary**

Editor's Note: This Section is being repromulgated to correct a citation error and preserve existing text. The original Rule may be viewed in its entirety on pages 1147-1149 of the April 20, 2011 edition of the *Louisiana Register*.

**Greenhouse Gas (GHG) Tailoring
(LAC 33:III.502 and 509)(AQ314ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.502.A and 509.B (AQ314ft).

This Rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, pages 31606-31607, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a Rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final Rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO₂e). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

On April 2, 2010, EPA published a final Rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action,

GHGs become "subject to regulation" and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

Significant—

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

Consequently, in the absence of thresholds specifically tailored to GHGs, the Title V and PSD major source threshold would be 100 or 250 tons per year (depending on the source category), and any increase in GHG emissions resulting from a physical change or change in the method of operation at a major source would trigger PSD review.

According to the Tailoring Rule, this would greatly increase the number of required permits, impose undue costs on small sources, overwhelm the resources of permitting authorities, and severely impair the functioning of the programs (75 FR 31514). The basis and rationale for this Rule is to adopt the federal major stationary source threshold and PSD significance level for GHGs. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - A.5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in Table A-1 to Subpart A of 40 CFR, Part 98—Global Warming Potentials, and summing the resultant value for each.

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the

potential to emit, 100 tons per year or more of any pollutant (except for GHGs) subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant (except for GHGs) subject to regulation under this Section;

c. as of July 1, 2011, any stationary source listed in Table A of this definition which emits, or has the potential to emit, 100 tpy or more of *GHGs* on a mass basis (i.e., no global warming potentials applied) and 100,000 tons per year or more of *CO2e*; or any stationary source not listed in Table A that emits, or has the potential to emit, 250 tpy or more of *GHGs* on a mass basis and 100,000 tons per year or more of *CO2e*; or

d. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a, b, or c of this definition if the change would constitute a major source by itself;

e. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

f. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

a rate of emissions that would equal or exceed any of the following rates.

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions 15 tpy of PM ₁₀ emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy
<i>GHGs</i> and <i>GHGs</i> as <i>CO₂e</i> ⁵	0 tpy and 75,000 tpy, respectively ⁵

¹Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
²Measured as particulate matter.
³Measured as sulfur dioxide and hydrogen chloride.
⁴Measured as nonmethane organic compounds.
⁵Both of the following conditions must be met: (1) the net emissions increase of *GHGs* calculated as the sum of the six *GHGs* on a mass basis (i.e., no global warming potentials applied) equals or exceeds 0 tpy; and (2) the net emissions increase of *GHGs* calculated as the sum of the six *GHGs* on a *CO2e* basis (i.e., global warming potentials applied) equals or exceeds 75,000 tpy *CO2e*.

1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants
22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants,

b. ...

c. notwithstanding Subparagraph a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1 g/m³ (24-hour average);

d. notwithstanding Subparagraph a of this definition, between January 2, 2011, and June 30, 2011, the pollutant *GHGs* is “subject to regulation” only if the stationary source is:

i. a new major stationary source for a regulated NSR pollutant that is not *GHGs* and also will emit or have the potential to emit *GHGs* in a significant amount; or

ii. an existing major stationary source for a regulated NSR pollutant that is not *GHGs* and also will have a significant net emissions increase of both *GHGs* and another regulated NSR pollutant.

C. - AA.15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office

of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011).

Herman Robinson, CPM
Executive Counsel

1104#011

RULE

**Department of Environmental Quality
Office of the Secretary**

**Non-Road Engines
(LAC 33:III.501 and 502)(AQ317)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.501.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;
2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and
3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

“exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.”

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§501. Scope and Applicability

- A. - B.1.b. ...
 - c. mobile sources such as automobiles, trucks, and aircraft;
 - d. any *upset*, as defined in LAC 33:III.507.J.1; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39; or
 - e. a *nonroad engine*, as defined in LAC 33:III.502.A.
2. - 5. ...

Table 1. - Insignificant Activities List
* * *
[See Prior Text in A. - B.3.]
4. vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources. . This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
* * *
[See Prior Text in B.5 - D.]

B.6. - C.14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1391 (May 2011).

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this

Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

Nonroad Engine—

a. Except as discussed in Subparagraph b of this definition, a nonroad engine is any internal combustion engine:

i. used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers);

ii. used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

iii. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

b. An internal combustion engine is not a nonroad engine if:

i. the engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition;

ii. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or

iii. the engine otherwise included in Clause a.iii of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location for approximately three months (or more) each year. [Note: Clause b.iii of this definition does not apply to an engine after it is removed from the location.]

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1391 (May 2011).

Herman Robinson, CPM
Executive Counsel

1105#033

RULE

**Board of Trustees of the Firefighters'
Pension and Relief Fund**

Tax Qualification Provisions (LAC 58:V.2001)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V. The restatement and amendment adds a Chapter 20 to address federal tax qualification issues. All currently stated rules of the fund, unless amended herein, shall remain in full force and effect.

Title 58

RETIREMENT

**Part V. Firefighters' Pension and Relief Fund
for the City of New Orleans and Vicinity**

Chapter 20. Tax Qualification Provisions

§2001. General Provisions

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the Internal Revenue Code of 1986, as amended. In accordance with the requirements of the Internal Revenue Code, the following provisions shall apply to the fund.

1. The assets of the fund shall be held for the exclusive benefit of the members of the fund, the retirees thereof, and the survivors and beneficiaries of the retirees and members. No part of the funds held by the trustees of the fund shall be used or diverted for any reason, including any contingency or event or by any other means, to other purposes, including but not limited to reversion to any employer.

2. The retirement benefit of a member shall be fully vested and nonforfeitable no later than the date on which he becomes eligible to retire. Benefits of members shall also become vested and nonforfeitable upon the termination of the fund or the complete discontinuance of contributions to the system.

3. Forfeitures shall not be used to increase the benefits of the remaining members of the fund. This shall specifically not preclude any increase in benefits by amendment to the benefit formula made possible by a change in contribution rate, favorable investment results, or other means.

4. A member's benefit shall begin to be distributed not later than the latest date provided for the commencement of benefits for governmental plans under section 401(a)(9)(C) of the Internal Revenue Code of 1986, as amended. Distributions to a surviving spouse, dependent, successor and/or beneficiary of a member shall be made at least as soon as distributions are required to be made by qualified governmental plans under the Internal Revenue Code of 1986, as amended. Benefits payable shall be limited in accordance with IRC section 415 and applicable treasury regulations as applied to governmental plans.

5. In computing benefit accruals, there shall not be taken into account compensation in excess of the limitations specified in section 401(a)(17) of the Internal Revenue Code, as amended. Such compensation limit was \$200,000 for tax years beginning after December 31, 2001.

6. The fund, its trustees, consultants, and advisors shall not engage in any prohibited transactions as that term is defined in section 503 of the Internal Revenue Code of 1986, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 37:1392 (May 2011).

Louis L. Robein
Fund Attorney

1105#035

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Corrupt and Prohibited Practices
(LAC 35:I.1727 and 1743)

The Louisiana State Racing Commission hereby amends Corrupt and Prohibited Practices (LAC 35:I.1727 and 1743) as follows.

**Title 35
HORSE RACING**

Part I. General Provisions

**Chapter 17. Corrupt and Prohibited Practices
§1727. Drugs Which Affect Performance; Guarding
Horse**

A. No person shall administer, or cause or knowingly permit to be administered, or connive at the administration of any drug not permitted by Chapter 15 to any horse to be entered or entered for a race.

B. No person shall feed, or cause or knowingly permit to be fed, or connive in any manner to feed products which contain any drug not permitted by Chapter 15 to a horse to be entered or entered for a race.

C. Every owner, trainer or groom must guard, or cause to be guarded, each horse owned, trained or attended by him in such manner as to prevent any person or persons from administering to the horse, by any method, or feeding to a horse products which contain any drug, not permitted by Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), LR 12:11 (January 1986), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011).

§1743. Possession of Drugs, Syringes or Needles

A. No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (offtrack) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any prohibited drugs, hypodermic syringes or hypodermic needles or similar instruments which may be used for

injection. Anything herein to the contrary notwithstanding, a licensed veterinarian may have in his possession such drugs, instruments or appliances, etc., as required in the practice of general veterinary medicine.

B. No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (offtrack) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any feed products containing drugs not otherwise and expressly approved for use in race horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:288 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 16:765 (September 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011).

Charles A. Gardiner III
Executive Director

1105#009

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Mandatory Health Screening (LAC 35:I.1304)

The Louisiana State Racing Commission hereby amends Mandatory Health Screening (LAC 35:I.1304) as follows.

**Title 35
HORSE RACING**

Part I. General Provisions

**Chapter 13. Health Rules
§1304. Mandatory Health Screening**

A. ...

B. No horse shall be allowed to enter the confines of a racetrack of any association holding a license to conduct a race meeting or race in Louisiana unless it has had an Equine Piroplasmiasis (EP) test taken within 12 months of the date of entry upon the racetrack and/or race, with a negative result for Theileria equi and Babesia caballi. Record of the negative test shall be attached to registration papers of the horse upon entry to the racetrack. The trainer of the horse is responsible for insuring that a negative Piroplasmiasis test result is in the racing secretary's office as required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 14:226 (April 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011).

Charles A. Gardiner III
Executive Director

1105#010

RULE
Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 703, 907, 1103, 1305,
1307, 1503, 2503, 3101, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2011 (2012 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

- A. - E.1. ...
- F. Homestead Exemptions
 - 1. General Provisions
 - a. - d. ...

e. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003 on any property occupied upon the effective date of this Paragraph* by a buyer under a bond for deed contract shall remain valid as long as the circumstances giving rise to the exemption at the time the exemption was granted remains applicable. See Constitutional Article 7, §20.(A)(7).

- 1.f. - 3.h. ...

- G. Special Assessment Level
 - 1. - 1.d....

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$65,891 for tax year 2011 (2012 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

- 3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), LR 37:1394 (May 2011).

Chapter 7. Watercraft
§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	94	.93
2009	0.985	2	87	.86
2008	1.013	3	80	.81
2007	1.053	4	73	.77
2006	1.111	5	66	.73
2005	1.162	6	58	.67
2004	1.250	7	50	.63
2003	1.293	8	43	.56
2002	1.315	9	36	.47
2001	1.323	10	29	.38
2000	1.334	11	24	.32
1999	1.358	12	22	.30
1998	1.362	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	97	.96
2009	0.985	2	93	.92
2008	1.013	3	90	.91
2007	1.053	4	86	.91
2006	1.111	5	82	.91
2005	1.162	6	78	.91
2004	1.250	7	74	.90
2003	1.293	8	70	.89
2002	1.315	9	65	.85
2001	1.323	10	60	.79
2000	1.334	11	55	.73
1999	1.358	12	50	.68
1998	1.362	13	45	.61
1997	1.374	14	40	.55
1996	1.396	15	35	.49
1995	1.418	16	31	.44
1994	1.469	17	27	.40
1993	1.510	18	24	.36
1992	1.539	19	22	.34
1991	1.558	20	21	.33
1990	1.589	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002),

LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), LR 37:1394 (May 2011).

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. - A.7. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	35.22	123.24	5.28	18.49
1,250-2,499 ft.	31.79	90.62	4.77	13.59
2,500-3,749 ft.	24.99	60.01	3.75	9.00
3,750-4,999 ft.	34.55	59.80	5.18	8.97
5,000-7,499 ft.	40.64	58.37	6.10	8.76
7,500-9,999 ft.	89.09	78.67	13.36	11.80
10,000-12,499 ft.	259.81	95.44	38.97	14.32
12,500-14,999 ft.	N/A	144.11	N/A	21.62
15,000-Deeper ft.	N/A	164.33	N/A	24.65

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	270.74	122.43	40.61	18.36
1,250-2,499 ft.	93.49	203.50	14.02	30.53
2,500-3,749 ft.	91.29	162.24	13.69	24.34
3,750-4,999 ft.	80.48	129.79	12.07	19.47
5,000-7,499 ft.	109.94	147.42	16.49	22.11
7,500-9,999 ft.	149.98	154.35	22.50	23.15
10,000-12,499 ft.	204.52	201.77	30.68	30.27
12,500-14,999 ft.	268.28	261.04	40.24	39.16
15,000-17,499 ft.	434.55	349.49	65.18	52.42
17,500-19,999 ft.	530.58	495.04	79.59	74.26
20,000-Deeper ft.	283.32	743.21	42.50	111.48

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1357.13	991.64	203.57	148.75
2,500 -3,749 ft.	697.85	762.11	104.68	114.32
3,750 -4,999 ft.	996.11	698.83	149.42	104.82
5,000 -7,499 ft.	495.70	647.26	74.36	97.09
7,500 -9,999 ft.	628.47	612.50	94.27	91.88
10,000 -12,499 ft.	711.48	620.87	106.72	93.13
12,500 -14,999 ft.	618.79	604.21	92.82	90.63
15,000 -17,499 ft.	426.50	626.93	63.98	94.04
17,500 - 19,999 ft.	N/A	599.36	N/A	89.90
20,000 - Deeper ft.	N/A	942.14	N/A	141.32

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to

Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region I			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2010	240636	Higher	96
2009	239277	240635	91
2008	236927	239276	87
2007	234780	236926	82
2006	232639	234779	77
2005	230643	232638	73
2004	229010	230642	68
2003	227742	229009	62
2002	226717	227741	57
2001	225352	226716	51
2000	223899	225351	46
1999	222882	223898	40
1998	221596	222881	35
1997	220034	221595	31
1996	218653	220033	28
1995	217588	218652	25
1994	216475	217587	21
1993	Lower	216474	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);

- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(see Metering Equipment)	
Automatic Control Equipment—(see Safety Systems)	
Automatic Tank Switch Unit—(see Metering Equipment)	
Barges - Concrete—(assessed on an individual basis)	
Barges - Storage—(assessed on an individual basis)	
Barges - Utility—(assessed on an individual basis)	
Barges - Work—(assessed on an individual basis)	
Communication Equipment—(see Telecommunications)	
Dampeners—(see Metering Equipment—"Recorders")	
DESORBERS—(no metering equipment included):	
125#	109,990
300#	121,270
500#	138,000
Destroilets—(see Metering Equipment—"Regulators")	
Desurgers—(see Metering Equipment—"Regulators")	
Desilters—(see Metering Equipment—"Regulators")	
Diatrollers—(see Metering Equipment—"Regulators")	
Docks, Platforms, Buildings—(assessed on an individual basis)	
Dry Dehydrators (Driers)—(see Scrubbers)	
Engines-Unattached—(only includes engine and skids):	
Per Horsepower	350
Evaporators—(assessed on an individual basis)	
Expander Unit—(no metering equipment included):	
Per Unit	40,350
Flow Splitters—(no metering equipment included):	
48 In. Diameter Vessel	19,640
72 In. Diameter Vessel	26,020
96 In. Diameter Vessel	39,880
120 In. Diameter Vessel	56,660
Fire Control System—(assessed on an individual basis)	
Furniture & Fixtures—(assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(Skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	1,500
50 HP and less—Per HP	1,290
51 HP to 100 HP—Per HP	940
101 HP and higher—Per HP	
Gas Coolers—(no metering equipment);	
5,000 MCF/D	31,000
10,000 MCF/D	34,910
20,000 MCF/D	108,590
50,000 MCF/D	246,360
100,000 MCF/D	403,480

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Generators—Package Unit only -(no special installation) Per K.W.	230
Glycol Dehydration-Package Unit—(Including pressure gauge, relief valve and regulator. No other metering equipment.):	21,760
Up to 4.0 MMCF/D	24,270
4.1 to 5.0 MMCF/D	46,780
5.1 to 10.0 MMCF/D	65,080
10.1 to 15.0 MMCF/D	88,590
15.1 to 20.0 MMCF/D	115,200
20.1 to 25.0 MMCF/D	218,810
25.1 to 30.0 MMCF/D	244,430
30.1 to 50.0 MMCF/D	304,070
50.1 to 75.0 MMCF/D	350,850
75.1 & Up MMCF/D	
Heaters—(Includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	7,540
Steam Bath—Direct Heater:	9,480
24 In. Diameter Vessel - 250,000 BTU/HR Rate	11,460
30 In. Diameter Vessel - 500,000 BTU/HR Rate	16,960
36 In. Diameter Vessel - 750,000 BTU/HR Rate	20,930
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	6,440
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	8,830
Water Bath—Indirect Heater:	11,520
24 In. Diameter Vessel - 250,000 BTU/HR Rate	16,310
30 In. Diameter Vessel - 500,000 BTU/HR Rate	20,870
36 In. Diameter Vessel - 750,000 BTU/HR Rate	8,250
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	10,290
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	15,440
Steam—(Steam Generators):	17,720
24 In. Diameter Vessel - 250,000 BTU/HR Rate	20,060
30 In. Diameter Vessel - 450,000 BTU/HR Rate	31,690
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	38,070
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	
Heat Exchange Units-Skid Mounted—(see Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	16,490
Heater - Treaters - (non-metering):	21,230
4 x 20 ft.	22,230
4 x 27 ft.	27,950
6 x 20 ft.	35,610
6 x 27 ft.	41,690
8 x 20 ft.	47,080
8 x 27 ft.	55,380
10 x 20 ft.	
10 x 27 ft.	
L.A.C.T. (Lease Automatic Custody Transfer)—see Metering Equipment	
JT Skid (Low Temperature Extraction)—(includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc.—complete unit.):	40,930
Up to 2 MMCF/D	58,480
Up to 5 MMCF/D	140,340
Up to 10 MMCF/D	233,900
Up to 20 MMCF/D	
Liqua Meter Units—(see Metering Equipment)	
Manifolds—(see Metering Equipment)	
Material & Supplies-Inventories—(assessed on an individual basis)	
Meter Calibrating Vessels—(see Metering Equipment)	
Meter Prover Tanks—(see Metering Equipment)	
Meter Runs—(see Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (assessed on an individual basis)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	6,370
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,990
Fluid Meters:	4,850
1 Level Control	6,260
24 In. Diameter Vessel - 1/2 bbl. Dump	8,650
30 In. Diameter Vessel - 1 bbl. Dump	4,560
36 In. Diameter Vessel - 2 bbl. Dump	5,500
2 Level Control	6,910
20 In. Diameter Vessel - 1/2 bbl. Dump	9,300
24 In. Diameter Vessel - 1/2 bbl. Dump	
30 In. Diameter Vessel - 1 bbl. Dump	
36 In. Diameter Vessel - 2 bbl. Dump	
L.A.C.T. and A.T.S. Units:	
30 lb. Discharge	30,640
60 lb. Discharge	34,910
Manifolds—Manual Operated:	
High Pressure	24,040
per well	8,120
per valve	11,630
Low Pressure	3,860
per well	
per valve	
Manifolds—Automatic Operated:	
High Pressure	43,450
per well	14,330
per valve	31,000
Low Pressure	10,470
per well	
per valve	
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports—no meters:	
2 In. piping and valve	6,550
3 In. piping and valve	7,360
4 In. piping and valve	8,880
6 In. piping and valve	12,390
8 In. piping and valve	18,620
10 In. piping and valve	24,800
12 In. piping and valve	31,000
14 In. piping and valve	42,220
16 In. piping and valve	55,140
18 In. piping and valve	68,300
20 In. piping and valve	88,770
22 In. piping and valve	111,870
24 In. piping and valve	136,950
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,800
5 bbl. calibration plate (24 x 10)	4,090
7.5 bbl. calibration plate (30 x 10)	5,730
10 bbl. calibration plate (36 x 10)	7,130
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	2,630
per meter	350
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	19,060
2 1/2 In. nominal size - per mile	25,670
3 & 3 1/2 In. nominal size - per mile	32,740
4, 4 1/2 & 5 In. nominal size - per mile	56,310
6 In. nominal size - per mile	82,680
Poly Pipe	
2 In. nominal size - per mile	10,470
2 1/2 In. nominal size - per mile	14,090
3 In. nominal size - per mile	18,010
4 In. nominal size - per mile	30,930
6 In. nominal size - per mile	45,430
Plastic-Fiberglass	
2 In. nominal size - per mile	16,260
3 In. nominal size - per mile	27,840
4 In. nominal size - per mile	47,840
6 In. nominal size - per mile	70,230
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit—separator & 1 heater—500 MCF/D	20,580
Class II - per unit—separator & 1 heater—750 MCF/D	27,420
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	290
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	350
Up to 300 HP - per HP of motor	410
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	
Pumping Units-Conventional and Beam Balance—(unit value includes motor) - assessed according to API designation.	
16 D	6,730
25 D	12,630
40 D	15,790
57 D	21,050
80 D	35,140
114 D	36,550
160 D	49,180
228 D	53,390
320 D	67,480
456 D	80,110
640 D	97,010
912 D	102,620
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(see Metering Equipment)	
Regulators:	
per unit	2,690

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Safety Systems	
Onshore And Marsh Area	5,380
Basic Case:	6,200
well only	9,300
well & production equipment	15,500
with surface op. ssv, add	38,760
Offshore 0 - 3 Miles	23,280
Wellhead safety system (excludes wellhead actuators)	54,260
per well	34,090
production train	3,860
glycol dehydration system	5,790
P/L pumps and LACT	
Compressors	
Wellhead Actuators (does not include price of the valve)	
5,000 psi	
10,000 psi and over	
NOTE: For installation costs - add 25%	
Sampler—(see Metering Equipment—"Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	3,270
8 In. Diameter Vessel	4,680
10 In. Diameter Vessel	5,320
12 In. Diameter Vessel	1,520
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	1,990
8 In. Diameter Vessel	
12 In. Diameter Vessel	
NOTE: No metering or regulating equipment included in the above.	
Separators—(no metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	4,790
6-5/8" OD x 5'-6"	5,210
8-5/8" OD x 7'-6"	7,310
10-3/4" OD x 8'-0"	9,820
12-3/4" OD x 8'-0"	15,790
16" OD x 8'-6"	23,330
20" OD x 8'-6"	24,560
20" OD x 12'-0"	33,100
24" OD x 12'-6"	48,300
30" OD x 12'-6"	57,420
36" OD x 12'-6"	
Separators—(no metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	5,440
24" OD x 7'-6"	5,840
30" OD x 10'-0"	12,220
36" OD x 10'-0"	5,730
Vertical 3—Phase /125 psi (Low Pressure)	6,490
24" OD x 7'-6"	9,010
24" OD x 10'-0"	12,810
30" OD x 10'-0"	14,850
36" OD x 10'-0"	8,480
42" OD x 10'-0"	10,870
Horizontal 3—Phase /125 psi (Low Pressure)	11,870
24" OD x 10'-0"	18,940
30" OD x 10'-0"	
36" OD x 10'-0"	
42" OD x 10'-0"	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	3,220
16" OD x 5'-6"	4,790
20" OD x 7'-6"	9,120
24" OD x 7'-6"	11,050
30" OD x 10'-0"	16,840
36" OD x 10'-0"	21,810
42" OD x 10'-0"	34,910
48" OD x 10'-0"	41,170
54" OD x 10'-0"	62,330
60" OD x 10'-0"	77,950
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,610
20" OD x 7'-6"	9,820
24" OD x 7'-6"	11,400
30" OD x 10'-0"	17,600
36" OD x 10'-0"	22,520
42" OD x 10'-0"	36,720
48" OD x 10'-0"	42,570
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	8,830
20" OD x 7'-6"	12,050
24" OD x 10'-0"	18,540
30" OD x 10'-0"	23,510
36" OD x 10'-0"	47,710
42" OD x 15'-0"	55,020
48" OD x 15'-0"	8,480
Separators—(No metering equipment included)	9,480
Horizontal 3—Phase /1440 psi (High Pressure)	13,800
16" OD x 7'-6"	19,640
20" OD x 7'-6"	28,300
24" OD x 10'-0"	31,630
30" OD x 10'-0"	40,750
36" OD x 10'-0"	38,890
36" OD x 15'-0"	56,430
36" OD x 15'-0"	58,890
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	91,390
30" OD x 10'-0"	
36" OD x 10'-0"	
36" OD x 12'-0"	
36" OD x 15'-0"	
42" OD x 15'-0"	
Skimmer Tanks—(see Flow Tanks in Tanks section)	
Stabilizers—per unit	6,020
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—no metering equipment	Per
Flow Tanks (receiver or gunbarrel)	Barrel*
50 to 548 bbl. Range (average tank size - 250 bbl.)	37.70
Stock Tanks (lease tanks)	29.30
100 to 750 bbl. Range (average tank size - 300 bbl.)	
Storage Tanks (Closed Top)	
1,000 barrel	24.90
1,500 barrel	22.00
2,000 barrel	21.40
2,001 - 5,000 barrel	19.70
5,001 - 10,000 barrel	18.40
10,001 - 15,000 barrel	17.30
15,001 - 55,000 barrel	12.10
55,001 - 150,000 barrel	9.20
Internal Floating Roof	
10,000 barrel	35.50
20,000 barrel	24.10
30,000 barrel	17.90
50,000 barrel	15.90
55,000 barrel	15.30
80,000 barrel	13.50
100,000 barrel	11.80
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Telecommunications Equipment	
Microwave System	46,780
Telephone & data transmission	3,510
Radio telephone	10,000
Supervisory controls:	22,810
remote terminal unit, well	580
master station	40
towers (installed):	590
heavy duty, guyed, per foot	120
light duty, guyed, per foot	180
heavy duty, self supporting, per foot	60
light duty, self supporting, per foot	
equipment building, per sq. ft.	
solar panels, per sq. ft.	
Utility Compressors	
per horsepower - rated on motor	770
Vapor Recovery Unit—no Metering Equipment	
60 MCF/D or less	20,470
105 MCF/D max	29,230
250 MCF/D max	38,600
Waterknockouts—Includes unit, backpressure valve and regulator, but, no metering equipment.	5,550
2' diam. x 16'	8,300
3' diam. x 10'	11,460
4' diam. x 10'	18,770
6' diam. x 10'	21,690
6' diam. x 15'	27,190
8' diam. x 10'	31,220
8' diam. x 15'	34,620
8' diam. x 20'	38,540
8' diam. x 25'	45,320
10' diam. x 20'	

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,170
Below ground	490
Air Compressors:	
1/3 to 1 H.P.	1,560
1/2 to 5 H.P.	2,630
Car Wash Equipment:	
In Bay (roll over brushes)	41,920
In Bay (pull through)	65,070
Tunnel (40 to 50 ft.)	141,640
Tunnel (60 to 75 ft.)	189,550
Drive On Lifts:	
Single Post	7,660
Dual Post	8,620
Lights:	
Light Poles (each)	780
Lights - per pole unit	860
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	3,310
Single	4,930
Dual	5,600
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	7,550
Single	
Dual	
Read-Out Equipment (at operator of self service)	
Per Hose Outlet	1,230

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Signs:	
Station Signs	3,700
6 ft. lighted - installed on 12 ft. pole	6,770
10 ft. lighted - installed on 16 ft. pole	3,080
Attachment Signs (for station signs)	3,160
Lighted "self-serve" (4 x 11 ft.)	11,210
Lighted "pricing" (5 x 9 ft.)	14,660
High Rise Signs - 16 ft. lighted - installed on:	16,400
1 pole	5,960
2 poles	3,160
3 poles	
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	
Lighted "pricing" (5 x 9 ft.)	
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,310
Tanks—(average for all tank sizes)	
Underground - per gallon	1.90

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:1395 (May 2011).

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	684,300	102,600
4,000	788,700	118,300
5,000	1,056,700	158,500
6,000	1,440,800	216,100
7,000	1,899,600	284,900

Table 1103.A Land Rigs		
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,397,400	359,600
9,000	2,904,500	435,700
10,000	3,397,200	509,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,857,400	578,600
12,000	4,273,200	641,000
13,000	4,638,600	695,800
14,000	4,953,200	743,000
15,000	5,222,900	783,400
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,459,200	818,900
17,000	5,679,700	852,000
18,000	5,907,800	886,200
19,000	6,172,800	925,900
20,000	6,510,000	976,500
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	6,960,600	1,044,100
25,000 +	7,571,400	1,135,700

1. Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

2. Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 50,000,000	\$ 7,500,000
	200-299 FT.	100,000,000	15,000,000
	300 FT. and Deeper	200,000,000	30,000,000
IS	0-199 FT.	\$ 15,000,000	\$ 2,250,000
	200-299 FT.	\$ 25,000,000	\$ 3,750,000
	300 FT. and Deeper	\$ 30,000,000	\$ 4,500,000
MC	0-199 FT.	\$ 5,000,000	\$ 750,000
	200-299 FT.	\$ 10,000,000	\$ 1,500,000
	300 FT. and Deeper	\$ 40,000,000	\$ 6,000,000
MS	0-249 FT.	\$ 10,500,000	\$ 1,575,000
	250 FT. and Deeper	\$ 20,670,000	\$ 3,100,500

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 FT.	\$ 45,700,000	\$ 6,855,000
801-1,800 FT.	\$ 81,875,000	\$ 12,281,300
1,801-2,500 FT.	\$ 150,000,000	\$ 22,500,000
2,501 FT. and Deeper	\$ 400,000,000	\$ 60,000,000

* * *

C.1. - C.3.b.i. ...

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	72' X 125M# 75' X 150M#	6V71	180,000	27,000
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	230,000	34,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	300,000	45,000
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	340,000	51,000
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	432,000	64,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	485,000	72,800
VII	117' X 215M#	(2) 8V92 (2) 12V71	515,000	77,300

D.1. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), LR 37:1399 (May 2011).

Chapter 13. Pipelines

§1305. Reporting Procedures

A. - B. ...

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total replacement cost."

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213

(December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 35:498 (March 2009), LR 36:778 (April 2010), LR 37:1400 (May 2011).

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 168,280	\$ 25,240
4	196,690	29,500
6	229,900	34,490
8	268,710	40,310
10	314,080	47,110
12	367,100	55,070
14	429,080	64,360
16	501,520	75,230
18	586,190	87,930
20	685,160	102,770
22	800,830	120,120
24	936,030	140,400
26	1,094,060	164,110
28	1,278,760	191,810
30	1,494,650	224,200
32	1,746,980	262,050
34	2,041,920	306,290
36	2,386,650	358,000
38	2,789,580	418,440
40	3,260,540	489,080
42	3,811,000	571,650
44	4,454,400	668,160
46	5,206,410	780,960
48	6,085,390	912,810

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 958,220	\$ 143,730
8	969,000	145,350
10	978,300	146,750
12	995,790	149,370
14	1,021,480	153,220
16	1,055,370	158,310
18	1,097,450	164,620
20	1,147,730	172,160
22	1,206,210	180,930
24	1,272,890	190,930
26	1,347,760	202,160
28	1,430,820	214,620
30	1,522,090	228,310
32	1,621,550	243,230
34	1,729,210	259,380
36	1,845,060	276,760
38	1,969,110	295,370
40	2,101,360	315,200
42	2,241,800	336,270
44	2,390,450	358,570
46	2,547,280	382,090
48	2,712,320	406,850

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

* Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), LR 37:1401 (May 2011).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	97	.96
2009	0.985	2	93	.92
2008	1.013	3	90	.91
2007	1.053	4	86	.91
2006	1.111	5	82	.91
2005	1.162	6	78	.91
2004	1.250	7	74	.90
2003	1.293	8	70	.89

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	1.315	9	65	.85
2001	1.323	10	60	.79
2000	1.334	11	55	.73
1999	1.358	12	50	.68
1998	1.362	13	45	.61
1997	1.374	14	40	.55
1996	1.396	15	35	.49
1995	1.418	16	31	.44
1994	1.469	17	27	.40
1993	1.510	18	24	.36
1992	1.539	19	22	.34
1991	1.558	20	21	.33
1990	1.589	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), LR 37:1401 (May 2011).

Chapter 25. General Business Assets

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. Suggested Guideline For Ascertain Economic Lives of Business and Industrial Personal Property. The following alphabetical list includes most of the principal activities and types of machinery and equipment used in business throughout this state. The years shown represent an estimate of the average economic life of the equipment as experienced by the particular business or industry. The actual economic life of the assets of the business under appraisal may be more or less than the guidelines shown. The assessor must use his best judgment in consultation with the property owner in establishing the economic life of the property under appraisal.

1. Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery & Equipment	10
Feed Mill Equipment (Production Line)	20
***	***
Hospital and Nursing Home Equipment	12
High Tech (Computer Driven) Equipment	5
Hotel F&F	10
***	***

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
*If acquisition cost and age of service station equipment are not available, see Chapter 9, Table 907.B-2 for alternative assessment procedure.	

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2010 = 100*
2010	1	1457.4	0.993
2009	2	1468.6	0.985
2008	3	1427.3	1.013
2007	4	1373.3	1.053
2006	5	1302.3	1.111
2005	6	1244.5	1.162
2004	7	1157.3	1.250
2003	8	1118.6	1.293
2002	9	1100.0	1.315
2001	10	1093.4	1.323
2000	11	1084.3	1.334
1999	12	1065.0	1.358
1998	13	1061.8	1.362
1997	14	1052.7	1.374
1996	15	1036.0	1.396
1995	16	1020.4	1.418
1994	17	985.0	1.469
1993	18	958.0	1.510
1992	19	939.8	1.539
1991	20	928.5	1.558
1990	21	910.2	1.589
1989	22	886.5	1.632
1988	23	841.4	1.719
1987	24	806.9	1.793
1986	25	795.4	1.819
1985	26	787.9	1.836

*Reappraisal Date: January 1, 2010 - 1446.5 (Base Year)

C. ...

D. Composite Multipliers 2011 (2012 Orleans Parish)

Table 2503.D Composite Multipliers 2011 (2012 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.84	.86	.89	.91	.93	.94	.96	.97
2	.48	.68	.72	.78	.83	.86	.89	.92	.94
3	.34	.53	.58	.68	.77	.81	.86	.91	.94
4	.17	.36	.43	.57	.71	.77	.83	.91	.93
5		.26	.33	.48	.64	.73	.81	.91	.92
6		.21	.22	.38	.57	.67	.79	.91	.91
7			.21	.33	.49	.63	.78	.90	.90
8				.28	.39	.56	.71	.89	.89
9				.26	.32	.47	.64	.85	.88
10					.28	.38	.57	.79	.87
11					.27	.32	.49	.73	.86
12						.30	.42	.68	.85
13						.27	.35	.61	.82
14							.32	.55	.77
15							.29	.49	.73
16							.28	.44	.68
17								.40	.65
18								.36	.59
19								.34	.52

Table 2503.D Composite Multipliers 2011 (2012 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
20								.33	.47
21								.32	.44
22									.42
23									.41
24									.36
25									.36
26									.35

1. Data sources for tables are:

- a. Cost Index—Marshall and Swift Publication Co.;
- b. Percent Good—Marshall and Swift Publication Co.;
- c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), LR 37:1402 (May 2011).

Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - G. ...

H. Notwithstanding any provision of law to the contrary, the procedure for inspection of assessment lists in Orleans Parish shall be as follows.

1. The assessor shall prepare and make up the lists showing the assessment of immovable and movable property in Orleans Parish. The lists shall be exposed daily, except Saturday, Sunday and legal holidays, for inspection by the taxpayers and other interested persons during the period of August first through August fifteenth of each year unless August fifteenth falls on a weekend or a legal holiday, when the period shall extend until the next business day. The assessor shall give notice of such exposure for inspection in accordance with rules and regulations established by the Louisiana Tax Commission. On or before the tenth business day after the completion of public inspection, the assessor shall certify his rolls to the Board of Review.

2.a. The Board of Review shall consider all written complaints in which the taxpayer has timely filed the reports as required by R.S. 47:2301 et seq. and R.S. 47:2321 et seq., and which have been:

- i. filed on the complaint form provided by the board, through the office of the assessor;

ii. completed in conformity with the requirements of the Board of Review;

iii. received by the office of the assessor, no later than three business days after the last date on which the lists are exposed.

b. Any complaints received by the assessor's office shall be forwarded to the Board of Review within seven business days after the last date in which the lists are exposed.

3. The Board of Review shall convene hearings on or before September fifteenth. The board may appoint one or more board members as hearing officers, who may conduct all required public hearings of the board with or without the presence of the other members, provided that no final action may be taken unless a quorum of the Board of Review is present. The board may make a determination to increase or decrease the assessment of real or personal property made by the assessor in accordance with the fair market or use valuation as determined by the board.

4. The Board of Review shall certify the assessment list to the Louisiana Tax Commission on or before October 20 of each year.

I. - K. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), LR 37:1403 (May 2011).

Chapter 35. Miscellaneous §3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2010, and ending on June 30, 2014, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), LR 37:1403 (May 2011).

James D. "Pete" Peters
Chairman

1105#031

RULE
Office of the Governor
Division of Administration
Office of State Uniform Payroll

403(b) Tax Shelter Annuity Program (LAC 4.III.901)

In accordance with the applicable provisions of R.S. 49:950 et seq., and pursuant to the authority granted under R.S. 42:455(A), the Division of Administration through the Office of State Uniform Payroll, hereby adopts the following Rule. The Division of Administration, through the Office of State Uniform Payroll, finds that in excess of 260 non-university employees paid through the ISIS HR system working in the education field have voluntarily participated in section 403(b) plans through direct payroll deductions as allowed by R.S. 42:455(A) without formally adopting conforming plans as required by IRS regulations. The rights and interests of these state employees, as well as other employees who may wish to participate, will be adversely affected unless the state provides for the establishment of a formally administered 403(b) Tax Shelter Annuity program which meets Internal Revenue Service regulations.

Title 4
ADMINISTRATION
Part III. Payroll

Chapter 9. 403(b) Tax Shelter Annuity Program

§901. Establishment

A. The following identified agencies may sponsor and participate in 403(b) plans for the benefit of their qualified education employees through payroll deductions and services afforded by the ISIS Human Resource System:

1. Board of Supervisors for the University of Louisiana System;
2. Louisiana School for the Deaf (renamed as Louisiana Schools for the Deaf and Visually Impaired);
3. Louisiana School for Math, Science and the Arts;
4. Board of Regents;
5. New Orleans Center for Creative Arts;
6. Louisiana Universities Marine Consortium;
7. Department of Education State Activities;
8. Recovery School District; and
9. any other ISIS HR paid agency which meets the Internal Revenue Code requirements applicable to 403(b) plans.

B. Each agency to sponsor a 403(b) plan shall sign an interagency agreement with the Division of Administration, agreeing to sponsor a 403(b) plan written to the agency's specifications. Each written plan, and any amendments made thereto, shall be approved as to form by the Commissioner of Administration through the Office of State Uniform Payroll and shall comply with this rule and all applicable IRS regulations. All plan agreements must be signed by the agency appointing authority and forwarded to the Office of State Uniform Payroll for review. The following plan options shall not be allowed: 1) Roth 403(b) contributions; 2) employer contributions; and 3) 15 year service catch-up options. Any plan may provide for a distribution option at age 59 1/2. All plans shall allow participation by all eligible

employees. Loan repayments shall not be handled through payroll deduction. Each agency, with oversight and approval of the Commissioner of Administration through the Office of State Uniform Payroll, shall administer its written 403(b) plan covering qualified ISIS HR paid education employees according to this rule.

C. The Office of State Uniform Payroll shall serve as the payroll agent/paymaster of the plan responsible for directing payroll deductions to the appropriate vendors. Agencies must work with the Office of State Uniform Payroll if a desired vendor does not have a current payroll deduction. The Office of State Uniform Payroll shall delegate any responsibility for making all eligible employees aware of plan participation ("universal awareness") to each individual agency sponsoring a plan. All plans must be monitored for IRS compliance through a plan monitor approved by the Office of State Uniform Payroll. Any 403(b) plan sponsored shall be voluntary, shall be designated as non-ERISA, and shall be non-contributory on the part of any sponsor, employer or agency of the state.

D. Sponsoring agencies, in cooperation with the Division of Administration, are authorized to enter into contracts with commercially available plan monitors at no cost to the sponsor, employer or agency of the state, to assist in formulating, instituting and monitoring their 403(b) Tax Shelter Annuity plans. Once adopted, any 403(b) plan shall be managed by the sponsor in the best interests of the participating employees, subject to any rule or regulation adopted by the Division of Administration. Nothing shall prevent the Division of Administration from adopting emergency rules from time to time regarding the duties and operation of sponsored plans.

E. The Office of State Uniform Payroll may develop internal policies and forms whenever necessary to regulate the following:

1. submission of 403(b) plans and amendments for approval;
2. approval of 403(b) plan documents and amendments;
3. content and acceptance of interagency agreements;
4. approval of proposed vendors and plan monitors; and
5. payroll deductions.

F. If the Division of Administration determines that continued sponsorship of any 403(b) Tax Shelter Annuity plan for state employees paid through ISIS Human Resource System is not in the best interests of the state, it shall cause the sponsoring agencies to give adequate notice to the participants prior to terminating the plan, and shall cause the sponsoring agencies to comply with all applicable IRS regulations related to dissolving 403(b) plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455 (A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 37:1404 (May 2011).

Andrea Hubbard
Director

1105#048

RULE

**Office of the Governor
Used Motor Vehicle Commission**

Licensure and Established Place of Business
(LAC 46:V.2905 and 2907)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that the Louisiana Used Motor Vehicle Commission has amended LAC 46:V.2905 in order to better facilitate the requirements to become an Used Motor Vehicle Dealer. The Louisiana Used Motor Vehicle Commission also amended LAC 46:V.2907 by adding a paragraph in order to better facilitate an established place of business.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicles

**Chapter 29. Licenses to be issued by the Used Motor
Vehicle Commission**

§2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, shall verify:

1. the applicant has an established place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the established place of business, the telephone number shall be listed on the application for license;

2. the applicant has the required garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state and for those dealers who conduct the business of daily vehicle rentals, a separate renter's policy is in effect;

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 30:436 (March 2004), amended but the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011).

§2907. Established Place of Business

A. ...

B. A licensed dealer with an established place of business may conduct a public or retail auction for a specified period of time at a location other than the dealer's established place of business. A licensed dealer which conducts a public or retail auction at a location other than the dealer's established place of business must include the address and telephone number of dealer's established place of business together with a telephone number to be used during the auction on all signs and bills of sale and shall obtain a public retail auction license for the auction location prior to advertising the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011).

Derek Parnell
Executive Director

1105#024

RULE

**Department of Health and Hospitals
Board of Dentistry**

Licensure; Portable and Mobile Dentistry; Nitrous Oxide; Sanctions; Examination of Dentist, Hygienists
(LAC 46:XXXIII.306, 313, 701, 712, 714, 720, 1511, 1709, and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.306, 313, 701, 712, 714, 720, 1511, 1709, and 1711. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

**§306. Requirements of Applicants for Licensure by
Credentials**

A. - B.5. ...

C. A person in a residency program approved by the Commission on Dental Accreditation of the American Dental Association or any other residency program may not apply for licensure by credentials unless he has held an active license during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992),

amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:1405 (May 2011).

§313. Portable and Mobile Dentistry

A. - G.I. ...

2. a statement that a parent or guardian may attend all dental visits and the form provides a telephone number and address where the parent or guardian can contact the operator's office if they wish to be at the school, facility or site when the minor is being treated. If the parent or guardian contacts the operator's office requesting to be present at the dental visit when their child is being treated, then the operator shall notify the parent or guardian when dental care is to be rendered so the parent or guardian can be present. This notice shall be provided to the parent or guardian at least five calendar days before dental care is to be rendered to the patient. If the operator is unable to reach the parent or guardian on the first attempt, he shall make at least two more attempts before treatment is to be provided. If the parent or guardian requests to be present, but does not appear at the site where the treatment is being provided no dental care shall be rendered to that patient;

3. - 6. ...

7. a conspicuous statement that the parent or guardian should contact the operator at the operator's toll free number if the parent or guardian has any questions whatsoever regarding the information provided or the consent form to be signed. The operator shall make a notation in the patient's chart regarding all questions and answers between the two parties.

H. ...

1. All consent forms shall include but not be limited to the following:

a. a complete listing of all procedures which may be performed by the operator which shall include a description of the risks and potential complications;

b. a description of all behavior management procedures which may be involved in the provision of dental treatment, and those risks associated with such dental treatment or course of dental treatment, which would ordinarily have been disclosed under the same or similar circumstances by dentists with the same or similar training and experience. The parent or guardian should be encouraged to call the operator if he or she has any questions concerning any of the above. All questions must be answered in a satisfactory manner. A check box or similar feature should appear by each type of procedure listed and appropriate instructions provided so that a parent or guardian may give permission for treatment of a minor to include only those procedures specifically chosen from the list and the behavior management procedures;

c. a statement encouraging the parent or guardian to be present during the treatment of the patient in order to assist the dentist, if necessary, with behavior management;

d. a notation that treatment cannot be rendered on a minor patient unless his or her medical history has been updated within the past six months. A space on the consent

form shall include a place for the parent to list any medical or dental problems which the patient may have;

e. an explanation of the notice of the operator's privacy practices which shall be in conformity with all federal and state laws.

2. When appropriate, during or at the conclusion of each patient's visit to the operation, the patient shall be provided with an information sheet and a copy shall be mailed to the patient's home. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school.

3. The information sheet as required herein shall include the following:

a. 24-hour toll free as well as an in-state telephone number and address where the parent, guardian, or patient can contact the operator's office for questions or emergency dental care;

b. the name of the dentist who provided services;

c. a description of the treatment rendered;

d. referral information if necessary;

e. post-operative instructions as necessary.

I. - M.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), and Act 429 of the Regular Legislative Session of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:2035 (September 2010), amended LR 37:1406 (May 2011).

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. ...

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties (which shall not include the administration of nitrous oxide inhalation or local anesthesia, and root planing, which must be under direct supervision) under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. - 10. ...

11. the administration of parenteral, intravenous (IV), or any general anesthetic agent.

C. - E. ...

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except the administration of nitrous oxide inhalation or local anesthesia, and root planing which must be under direct supervision) if all of the following conditions are satisfied:

F.1. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206

(February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:1406 (May 2011).

§712. Nitrous Oxide Inhalation Analgesia

A. After satisfying the board of his or her competence to administer nitrous oxide inhalation analgesia, a licensed dental hygienist may qualify for a special endorsement to administer nitrous oxide inhalation analgesia for dental procedures under the direct on-premises supervision of a licensed dentist who currently holds a personal permit for the administration of nitrous oxide or higher level of anesthesia in an office location at which there currently exists an office permit for the administration of nitrous oxide or higher level of anesthesia.

B. No dental hygienist shall use nitrous oxide inhalation analgesia unless said dental hygienist has received authorization by the board evidenced by receipt of a permit from the board.

C. In order to receive authorization the dental hygienist must show and produce evidence that he/she complies with the following provisions:

1. completion of a board-approved course which conforms to American Dental Association guidelines; and
2. provide proof of current certification in cardiopulmonary resuscitation, Course "C," Basic Life Support for the Healthcare Provider as defined by the American Heart Association, or its equivalent.

D. The permit to administer nitrous oxide inhalation analgesia shall expire with the expiration of the dental hygienist's license to practice dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:1407 (May 2011).

§714. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia

A. Competence to administer nitrous oxide inhalation analgesia must be demonstrated to the board by successful completion of at least 8 hours of instruction in a formal program in administration of nitrous oxide sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval.

B. The curriculum for required study must include, but is not necessarily limited to the following:

1. physical evaluation;
2. medical emergencies, prevention, diagnosis, and treatment;
3. didactic and clinical instruction of the administration of nitrous oxide inhalation; and
4. documentation of a minimum of six successful cases of induction and recovery performed under the direct supervision of a licensed dentist with appropriate permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:1407 (May 2011).

§720. Sanctions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1892 (November 2001), repealed LR 37:1407 (May 2011).

Chapter 15. Conscious Sedation with Parenteral Drugs

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - B.2. ...

3. When nitrous oxide inhalation analgesia is being administered, one dentist or auxiliary who is currently certified in basic life support must be available to assist the dentist or dental hygienist in an emergency.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006), LR 37:1407 (May 2011).

Chapter 17. Licensure Examinations

§1709. Examination of Dentists

A. - B.4. ...

C. To be licensed as a dentist in this state, an applicant for initial licensure must successfully complete the clinical examination administered by the Louisiana State Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

D.

E. To be licensed by credentials as stated in §306.B.5, a candidate may use a passing grade from a clinical examination administered by any clinical licensing examination which meets the criteria outlined in §1713.

F. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana State Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana State Board of Dentistry participating in the clinical licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011).

§1711. Examination of Dental Hygienists

A. - C.1. ...

2. To be licensed as a dental hygienist in this state, an applicant for initial licensure must successfully complete the clinical examination administered by the Louisiana State Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

3. To be licensed by credentials as stated in §706, a candidate may use a passing grade from a clinical examination administered by any clinical licensing examination which meets the criteria outlined in §1713.

4. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana State Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the

Louisiana State Board of Dentistry participating in the clinical licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011).

C. Barry Ogden
Executive Director

1105#011

RULE

Department of Public Safety and Corrections Corrections Services

Judicial Agency Residential Referral Facilities (LAC 22:I.Chapter 13)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, has repealed LAC 22:I.Chapter 13, Judicial Agency Residential Referral Facilities in its entirety. This Chapter is being repealed and incorporated into two Sections.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 13. Residential Referral

Subchapter A. General Provisions

§1301. Judicial Agency Referral Residential Facilities

A. Purpose—to state the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to a certified residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, Director of Probation and Parole and administrators of housing or temporary residential facilities. The chief of operations is responsible for the overall implementation, compliance and review of this regulation. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy—no facility not otherwise required to be licensed by the Department of Health and Hospitals or Department of Children and Family Services, shall provide housing or temporary residence to any individual referred by a judicial agency except in accordance with this regulation. Referrals to such facilities by a judicial agency may only be made after the facility has been inspected by the Department of Public Safety and Corrections and certified to be in compliance with the standard operating procedures established pursuant to this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The state fire marshal and state health officer shall determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the standard operating procedures (SOP) for judicial agency referral residential facilities. Revisions to the SOP shall be accomplished through this regulation under the signature of the secretary.

4. The facility shall be accredited by the American Correctional Association within twenty-four months of opening and shall maintain accreditation at all times thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:666 (April 2007), amended LR 37:1408 (May 2011).

Subchapter B. Standard Operating Procedures for Judicial Agency Referral Residential Facilities

§1303. Standard Operating Procedures

A. American Correctional Association (ACA)

1. All judicial agency referral residential facilities shall be operated in accordance with R.S. 40:2852 and must maintain accreditation by the American Correctional Association Standards for Adult Community Residential Services. Facilities shall be accredited by the American Correctional Association (ACA) within 24 months of opening as a judicial agency referral residential facility.

2. Written policies and procedures that reflect compliance with ACA and the standard operating procedures for judicial agency referral residential facilities, as well as facility rules for resident behavior must be submitted to and approved by the secretary of the Department of Public Safety and Corrections prior to beginning operations or implementation. Any proposed revisions to policies, procedures or facility rules must be submitted for approval prior to implementation.

B. Administration

1. The facility shall have a written document describing the facility's organization. The description shall include an organizational chart that groups similar functions, services and activities in administrative subunits. The chart is reviewed at least annually and updated, if needed.

2. Regular meetings between the facility administrator and all department heads shall be held monthly and there is formal documentation that such meetings occurred.

3. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute or regulation, but at least every three years.

4. Each facility shall have insurance coverage that includes, at a minimum, property insurance and comprehensive general liability insurance. Such insurance is provided either through private companies or self insurance.

5. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with Subsection K of this Section.

6. Staffing requirements for the facility shall ensure there is 24 hour on site staff monitoring and coordinating of the facility's life safety and communications systems and also to respond to resident needs.

7. Standard of Conduct for Employees of Judicial Agency Referral Residential Programs

a. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

b. Each employee shall be advised of the location of the facility manual that specifies the operating and maintenance requirements of the facility. The location of the manual shall be accessible to all employees.

c. The facility shall provide adequate staff at the facility 24 hours a day to control the movement and location at all times of all residents assigned to the facility and to respond to their needs. However, when both female and male residents are housed in the same facility, at least one male and one female staff member are on duty at all times.

d. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

e. There shall be written job descriptions and job qualifications for all positions in the facility. Each job description includes at a minimum:

- i. job title;
- ii. responsibilities of the position;
- iii. required minimum experience; and
- iv. education.

f. All full-time employees must receive 40 hours of orientation training prior to undertaking their assignments (administrators, managers, professional and careworkers) and must participate in 40 hours of training their first year of employment and each year thereafter. Clerical/support staff shall be provided with 16 hours of training in addition to orientation during their first year and 16 hours of training each year thereafter. All training curriculum shall be in accordance with the applicable ACA standards.

8. A training procedure shall be in place which shall include orientation for all new employees (appropriate to their job) prior to assuming a position.

9. Case records shall be maintained for each resident housed at the facility.

10.a. Written records or logs shall be maintained at the facility which continuously documents the following information:

- i. personnel on duty;
- ii. resident population;
- iii. admission and release of residents;
- iv. shift activities;
- v. entry/exit of all visitors including legal/medical;
- vi. unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence).

b. Shift reports are also prepared after the completion of each shift.

C. Physical Plant

1. The facility shall comply with the requirements of the state fire marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the state fire marshal. The state fire marshal shall approve any variances, exception or equivalencies.

2. The facility shall comply with the requirements of the state health officer and shall have a specific plan for addressing deficiencies, if any, that is approved by the state health officer.

3. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the state fire marshal and state health officer. The state fire marshal

shall determine a capacity based upon exiting capabilities. The state health officer shall determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity shall be the lower of these two figures.

4. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule.

5. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

6. The facility shall have a method to ensure the control of vermin and pests.

7. Toilet and hand basin facilities are available to food service personnel in proximity to the food preparation area.

8. The facility shall have exits that are properly positioned, clear, distinct and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

9. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

10. The facility shall have a written emergency plan, which includes an evacuation plan, to be used in the event of a fire or major emergency. Evacuation drills shall be conducted at least quarterly on each shift when the majority of the residents are present. Facility staff shall be trained in the implementation of written emergency plans and the plans shall be disseminated to appropriate local authorities, including the Department of Public Safety and Corrections.

11. A qualified person conducts fire inspections at least quarterly and equipment is tested as specified by the manufacturer or the fire authority, whichever is more frequent. All furnishings shall comply with fire safety performance requirements.

12. All flammable materials shall be handled and stored safely. The use of toxic and caustic materials shall be controlled.

D. Facility Operations

1. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program. This shall include residents who are absent from the program for work, education or other temporary absence.

2. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases or removes a resident from the facility.

3. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident cannot be located a report must be filed by the next working day with the referring judicial authority.

4. When a resident leaves the facility for any reason, he shall sign out in the facility resident log. Each entry shall include:

- a. resident's name;
- b. destination;
- c. phone number at destination;
- d. address of destination;
- e. time out;
- f. anticipated time of return;
- g. actual time of return; and
- h. the initials of the appropriate staff member charged with monitoring the log book.

5. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

6. Alcohol/drug testing shall be conducted both randomly and for probable cause. Drug testing shall be conducted monthly on a minimum of 10 percent of the residents. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

7. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on-duty staff.

8. The facility shall have a written emergency plan that is disseminated to the local authorities including but not limited to the local police and fire department.

9. The facility shall have disciplinary rules and procedures available to the resident population.

10. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin or sex. The facility shall have written policy, procedure and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage and harassment.

11. Possession and use of weapons is prohibited in the facility except in the event of an emergency.

12. A written report shall be prepared following all uses of force detailing all circumstances, listing all involved, including witnesses and describing medical services provided. Such reports shall be submitted to the facility administrator and maintained on file.

E. Facility Services

1. Written policy, procedure and practice shall require that dietary allowances are reviewed at least annually by a qualified nutritionist, dietician or physician to ensure that they meet the nationally recommended allowances for basic nutrition for the type of residents housed at the facility. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24 hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

2. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

3. The facility shall have a written housekeeping and maintenance plan that provides for the ongoing cleanliness and sanitation of the facility, including a plan for the control of vermin and pests.

4. The facility has an obligation to ensure that the resident has adequate clothing appropriate to the season and the resident's work status, including adequate changes of clothing to allow for regular laundering.

5. The facility shall provide adequate bedding and linens including two sheets, pillow and pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls. Residents shall have access to personal hygiene articles including soap, towels, toothbrush, toothpaste, comb, toilet paper, shaving gear and/or feminine hygiene articles.

6. The facility shall have written policy, procedure and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority that may be a physician, a licensed or registered health care provider or health agency. Access to these services are available 24 hours per day in case of emergency and should be unimpeded in the sense that non-medical staff should not approve or disapprove residents requests for services in accordance with the facility's health care plan.

7. Anyone providing health care services to residents shall be licensed, registered or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration or certification. Standing or direct orders may be used in the treatment of residents only when authorized in writing by a physician or dentist.

8. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training and job description. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

9. The facility shall provide access to 24 hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel or on-duty qualified health care personnel.

10. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention.

11. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as ordered by the prescribing physician.

12. First aid kits shall be available in areas of the facility as designated by the health care authority. Contents and locations are approved by the health authority.

13. Sick call shall be conducted by a physician and/or other qualified health care personnel who are licensed, registered or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration or certification.

14. There is a written suicide prevention and intervention program that is approved by a medical or mental health professional who meets the educational and license/certification criteria specified by his/her respective professional discipline. All staff with responsibility for

resident supervision are trained in the implementation of the program.

15. Written policy, procedure and practice shall specify and govern the actions to be taken in the event of a resident's death.

16. Residents shall not participate in medical, pharmaceutical or cosmetic experiments. This does not preclude individual treatment of a resident based on the need for a specific medical procedure that is not generally available.

F. Resident Programs

1. Educational programming shall be available from acceptable internal or external sources which shall include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

2. Written policy, procedure and practice shall govern resident correspondence. Such policy shall include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives. Written policy, procedure and practice govern resident access to publications and packages from outside sources. Staff members shall have access to policies concerning resident correspondence.

3. Written policy, procedure and practice govern visiting. The only time an approved visitor can be denied a visit is where there is substantial evidence that the visitor poses a threat to the safety of the resident or the security of the program.

4. Reading materials shall be available to residents on a reasonable basis.

5. Residents shall have an opportunity for religious practice.

6. Recreation and leisure time activities are available to meet the need of the residents.

7. Substance abuse services through community referrals shall be provided, along with adequate monitoring, for residents identified through assessment who have alcohol and/or drug abuse problems.

8. The facility shall have a grievance procedure with at least one level of appeal. However, if the resident is not satisfied with the outcome of the facility's internal decision they shall be allowed to appeal to the referring judicial agency.

G. Employment

1. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer shall be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected shall be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

2. Other than noted above, there are no general restrictions on the types of jobs residents may be considered for except those relative to juveniles; however, common

sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents shall not be employed in a bar, lounge or tavern as a bartender, waiter or janitor. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is verified by the facility and is determined to be appropriate.

3. No resident shall be employed in a position which would necessitate his/her departure from the state of Louisiana without the express consent of the probation and parole officer, district attorney and/or the court, whichever is applicable.

4. Every reasonable effort shall be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to the facility providing transportation, should not be a deciding factor as to where residents are employed.

5. Residents shall be assisted by facility staff in obtaining gainful employment. The facility shall be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

6. All employers must sign the Employer's Work Agreement Form which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the Employer's Work Agreement to all approved employers. A copy of the signed form shall be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

7. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, shall be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

8. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

9. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

10. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s) and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

11. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the permanent log.

H. Community Involvement

1. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Community resources should be obtained through referrals or by contract to provide residents with services to meet their needs.

2. Policies and procedures regarding citizen involvement shall be developed and volunteers shall be subject to approval by the facility administrator.

3. The facility shall have an advisory board that is representative of the community in which it is located that meets at least annually. The local Department of Public Safety and Corrections Probation and Parole Office, shall designate a staff person to serve on this board.

I. Resident Activities

1. Permanent Log

a. A permanent log shall be maintained which shall indicate when residents report to and leave work and shall list events, messages, telephone calls, unusual incidents, counts, meals, etc. This permanent log shall be maintained continuously by the careworker staff. All resident work schedules shall be verified by facility staff prior to the resident being logged out for work.

2. Resident Log

a. A daily resident log shall be maintained which shall indicate when residents leave and return to the facility for any reason. The resident shall sign out in the facility log book. Each entry shall include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty shall initial each entry when the resident leaves the facility and when he returns. A clock with the correct time shall be visible to both the resident and the employee and shall serve as the official timepiece. This daily resident log will begin at 12 midnight and cover a 24 hour period. Resident logs shall be kept on file for at least three years.

b. Random pat searches shall be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests shall be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests shall be entered on the permanent log.

J. Resident Discipline

1. Residents assigned to the program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook and any other rules and regulations of the facility's program, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

2. All of the above shall be provided to the resident prior to his voluntary entry into the program.

3. The facility's disciplinary process shall be defined and provide appropriate procedural safeguards as outlined in the applicable ACA standards. The facility shall have a

process for informal resolution of minor infractions of facility rules. Residents charged with major rule violations shall receive a written statement of the alleged violation(s), including a description of the incident and specific rules violated. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports shall receive training on report writing. A supervisor shall review disciplinary reports prior to submission making certain essential elements (who, what, when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

4. Restriction of Privileges

a. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed shall be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances shall privileges be restricted without a proper disciplinary report, a due process hearing and a finding of guilty. The denial of food shall not be used as a disciplinary measure.

b. The resident shall be allowed to appeal the disciplinary process. If they are not satisfied with the outcome of the appeal, they shall be allowed to appeal to the referring judicial agency.

K. Resident's Personal Funds

1. General

a. In keeping with the goals and objectives of the residential program, the facility shall ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

b. Funds held on behalf of the resident shall be properly accounted for. The collection and disbursement of the residents' wages shall be in accordance with the provisions of R.S. 15:1111. The methods used for the receipt, safeguarding, disbursement and recording of funds shall comply with generally accepted accounting principles.

c. A ledger shall be maintained reflecting the financial status of each resident in the facility, and there shall be adequate documentation to support the receipt/expenditure of resident funds in each resident's official file.

d. Each facility shall engage in an independent financial audit of all funds received and held on behalf of residents at least every three years. The DPSC monitoring team visits or audits conducted by the DPSC Internal Audit Division shall not be considered an independent audit for this purpose. The cost of the independent financial audit shall not be paid from the resident trust account.

e. The resident trust account is subject to review or audit by the DPSC and/or the Office of the Governor, Division of Administration auditor at any time.

2. Management of Resident Funds

a. Bonding

i. The facility shall provide the department with certificates of bonding documenting coverage sufficient to safeguard the maximum amount of resident funds staff may be responsible for handling.

b. Resident Trust Fund Account Management

i. The balance in the resident trust account shall represent only the funds owed to the residents. Resident

funds shall not be used for other purposes (i.e., pay operational expenses) or be commingled with other bank accounts. Likewise, the trust account shall not be used to maintain other monies, such as for resident organizations, seized contraband, investments or a "slush" fund.

(a). Start up costs for each new resident shall not be paid from the resident trust account. These costs shall be paid from the facility's operating fund account, to be reimbursed by the resident once the resident begins receiving wages.

(b). The resident trust account cash balance shall be maintained at the appropriate balance to cover each resident's account balance.

(c). Signers on the resident trust account shall be an employee or other legal stakeholders of the facility. The number of signers on the account shall not exceed three people.

(d). The resident trust account shall not be a "sweep account" or used in conjunction with "sweep accounts."

(e). On a monthly basis the following actions must occur:

(i). transfer out any interest earned on the Trust account. The interest earnings are property of the facility. Such interest earnings may be used to help defray administrative costs and to provide for other expenditures which will benefit the resident population;

(ii). transfer out amounts owed by residents for the daily room and board per diem;

(iii). transfer out amounts owed by residents to vendors to be paid from the operating account or pay the resident's expenses directly from the trust account;

(iv). reimburse trust account for expenses for bank service charges/fees (including fees for check orders) from the facility's operating fund account;

(v). reimburse trust account from the facility's operating fund account for any negative resident balances being paid with trust fund money. Residents who are allowed to spend more money than their current balance cannot use trust account funds to pay their debts; therefore, it becomes an operational expense;

(vi) provide a detailed statement of account balance to the resident in a confidential manner;

(vii) reconcile the trust account after receipt of the monthly bank statement:

[a]. add all deposits and deduct all withdrawals to each individual ledger to determine each resident's current balance;

[b]. total current month's positive balances for all resident ledgers, including balances carried forward from previous months which have had no transactions in the current month;

[c]. compare this total to the reconciled bank balance;

[d]. investigate and resolve any discrepancies between the bank and the resident ledger.

3. Income and Wages Received

a. The facility shall ensure employers adhere to the signed employer's work agreement by verifying rates of pay, hours worked and pay received by the resident for each pay period worked.

b. The facility shall ensure that the resident is paid by the employer by either a manual check sent directly to the facility or direct deposit to the resident trust account at the facility.

c. Residents shall not be allowed to receive payment from the employer via a pay card (pre-paid credit and/or ATM card) issued to the resident.

d. The facility shall process all personal funds received on behalf of the residents, issue pre-numbered receipts for funds and post receipts to the resident's account indicating receipt number.

e. Funds received shall be deposited daily (within 24 hours with the exception of weekends and holidays) into a fiduciary account held in trust for the residents and designated specifically as "Resident Trust Account." Credits shall be posted to the resident ledger within two business days.

f. Sensitive banking transactions involving the facility banking information and resident shall be handled directly between the facility and the employer, not between the resident and the employer.

4. Expenses and Withdrawals

a. All withdrawals or expenditures by a resident shall be documented by a withdrawal request form, signed and dated by the resident and document approval or denial of request by facility personnel. Withdrawals/expenditures shall be posted to the resident ledgers at least weekly with an adequate description relating to all transactions.

b. As one of the goals of a judicial agency referral residential program is to provide residents with the opportunity to accumulate savings as they prepare for reentry, facility managers have a fiduciary responsibility to set limitations on spending to maximize the potential savings of a resident.

c. Facilities shall develop procedures that set limitations and/or spending limits on resident purchases from canteen/commissary operations that encourage the resident to maximize on the opportunity to accumulate savings prior to release from the program.

5. Deductions

a. Residents shall be charged a daily rate not to exceed \$62.50 per day for services provided by the facility which includes room and board, transportation, education and all other necessary services. Medical and mental health services may be the responsibility of the resident. However, a lack of funds shall not interfere with the resident receiving these services. The resident shall not be charged for any additional costs other than those authorized in this document. Documentation of all deductions shall be maintained in each resident's file.

6. Other Deductions Allowed

a. Allowance. The facility shall develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents should be encouraged to refrain from unnecessary purchases in order that they may be able to accrue savings to be available to them upon completion of the program.

b. Support of the Resident's Dependents. The resident and facility shall mutually agree upon the amount to be sent to dependents. This agreement and authorization shall be in writing.

c. Legal Judgments. If there is a legal judgment of support, that judgment shall suffice as written authorization to disburse the money.

d. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing or reduced to judgment (including victim restitution) and shall reflect the schedule by which the resident wishes the debt to be repaid. The facility shall ensure that payment of this type debt is legitimate.

e. Canteen/commissary items shall be priced at a reasonable cost to residents. Contractors that operate a canteen shall provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

L. Sexual Assault and Sexual Misconduct

1. Prohibited Conduct—Sexual Contact between Staff, Civilians and Residents

a. There is no consensual sex in a custodial or supervisory relationship. Any sexual assault, sexual misconduct or sexual coercion between staff, civilians and residents is inconsistent with professional, ethical principles and department regulations. Acts of sexual assault, sexual misconduct or sexual coercion by staff or civilians against residents under their supervision is a violation of R.S. 14:134 et seq., subject to criminal prosecution. Retaliation against individuals because of their involvement in the reporting or investigation of sexual assault, sexual misconduct or sexual coercion is strictly prohibited.

2. Facility Policy

a. The facility shall have written policies and procedures for the prevention, detection, response, reporting and investigating of alleged and substantiated sexual assaults. Facility investigative reports of such allegations shall be submitted to the judicial agency which referred the resident to the facility.

M. Department of Public Safety and Corrections Facility Access

1. Compliance Monitoring

a. In accordance with R.S. 40:2852, all judicial agency referral residential facilities shall be regulated by rules adopted and enforced by the Department of Public Safety and Corrections for the operation of such facilities. In order to fulfill this mission, the department must have the ability to inspect the facility on a scheduled or random basis. The inspections shall include but not be limited to: review of ACA files; review of log books; resident employment status; quality of life issues; resident financial information and any information necessary to ensure compliance with both ACA standards and the standard operating procedures for judicial agency referral residential facilities.

2. Access to DPSC Staff

a. The Division of Probation and Parole shall have access as necessary to any residents on probation in the program to ensure compliance with conditions of probation. This includes the need for regular contacts, random drug screening and any other duties necessary to determine that the resident is abiding by the conditions of their probation.

b. The DPSC shall have access to the facility at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 37:1408 (May 2011).

§1305. Physical Plant

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:1414 (May 2011).

§1307. Facility Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:1414 (May 2011).

§1309. Facility Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:668 (April 2007), repealed LR 37:1414 (May 2011).

§1311. Resident Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:1414 (May 2011).

§1313. Employment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:1414 (May 2011).

§1315. Community Involvement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:1414 (May 2011).

§1317. Resident Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:1414 (May 2011).

§1319. Resident Discipline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:1414 (May 2011).

§1321. Resident Personal Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:671 (April 2007), repealed LR 37:1415 (May 2011).

James M. Le Blanc
Secretary

1105#036

RULE

**Department of Public Safety and Corrections
Corrections Services**

Non-Medical Furloughs (LAC 22:I.305)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, has repealed LAC 22:I.305, Non-medical Furloughs in its entirety.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§305. Non-Medical Furloughs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:811(C), R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended LR 8:274 (June 1982), LR 15:853 (October 1989), LR 32:249 (February 2006), repealed by the Department of Corrections, Corrections Services, LR 37:1415 (May 2011).

James M. Le Blanc
Secretary

1105#037

RULE

**Office of Public Safety and Corrections
Gaming Control Board**

Casino Gaming Payment Interception (LAC 42:III.2737)

The Louisiana Gaming Control Board has adopted LAC 42:III.2737. This Rule, required by R.S. 27:24(A)(5)(f), will intercept casino winnings from casino patrons who either received child support overpayments or are in arrears in satisfying court ordered child support payments and remit them to the Louisiana Department of Children and Family Services.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 27. Accounting Regulations

§2737. Casino Gaming Payment Interception

A. The Department of Children and Family Services (DCFS) shall provide real-time or immediate electronic

access to a database containing current information for persons having child support arrearages or overpayments. This access shall be available to the entities licensed or permitted under Chapters 1, 4, 5, or 7 of R.S. 27 et seq.

B.1. Prior to issuing payment of winnings (either cash or a second or later progressive slot machine annuity payment) in an amount requiring the filing of a W-2G or substantially equivalent form, the payor shall access the DCFS database to determine if the winning patron is recorded as owing overdue child support or receiving child support overpayments.

2. If the patron is recorded by DCFS as owing overdue child support or as having received overpayments, the payor may deduct up to \$35 as an administrative fee and shall then intercept the amount noted in the DCFS database from the patron's winnings. Any amount remaining following the deduction of the administrative fee, intercept amount, and any other deductions required by law shall then be paid to the winning patron.

3. If the winning patron's information is not recorded in the DCFS database, a licensee shall maintain a record of the negative search results for each payment made to a cash prize winner by attaching a print out of a negative results, or similar "No Record Found" page generated by the DCFS database to the jackpot payout slip. A DCFS generated log of all searches made may be printed and maintained in the licensee's accounting records in lieu of attaching a negative results record to each jackpot payout slip.

4. If the winning patron's information is not recorded in the DCFS database, a permittee who issues a second or later progressive slot annuity payment shall maintain a copy of the negative results or other "No Record Found" page generated by the DCFS database for each payment made to a progressive slot jackpot annuitant.

C.1. Intercepted amounts shall be forwarded to DCFS within seven business days in accordance with R.S. 27:24(A)(5)(c) and shall include a record of the identifying information for the individual from whom the payment was intercepted and the amount intercepted from each individual.

2. Licensees may aggregate multiple interception amounts for transfer to DCFS provided they provide a simultaneous record of the identifying information for the individuals from whom the payment was intercepted and the amount intercepted from each individual.

D.1. Licensee's internal controls shall include, but not be limited to, the following:

a. the amount of the administrative fee charged for processing DCFS interceptions;

b. either a list of employees authorized to access the DCFS database or an authorization noted in an authorized employee's job description;

c. procedures designed to prevent employees from willfully failing to withhold intercept payments from persons who have outstanding child support arrearages or child support overpayments;

d. procedures for restricting access to any DCFS database to authorized employees in such a manner that identifies the employee accessing the database;

e. procedures for ensuring only authorized employees access the database;

f. procedures for accessing and searching the DCFS database;

RULE

**Department of Public Safety and Corrections
Office of State Police**

**Breath and Blood Alcohol Analysis Methods and
Techniques (LAC 55:I.555 and 581)**

g. procedures for preserving the confidentiality of the information retrieved from the DCFS database;

h. procedures for ensuring the amount paid to a winning patron shall equal the jackpot or cash prize less the administrative fee, the interception amount, and tax withholdings if any;

i. procedures for preventing patrons with outstanding child support arrearages or overpayments to transfer or assign their jackpots to another patron;

j. procedures for withholding payment from patrons listed in the database;

k. procedures for notifying patrons subject to interception of the withholding by providing them with a receipt stating the reason for the interception, the amount withheld, and contact numbers for DCFS;

l. procedures for attaching a copy of the winning patron's interception receipt to the jackpot slip maintained by the cashier;

m. procedures for attaching the documentation required by Subsection F to the jackpot slip in the event the DCFS database is inaccessible; and

n. procedures for the timely forwarding intercepted payments to DCFS.

E. Any licensee or permittee who issues a second or later progressive slot machine annuity payment shall include in its internal controls, the procedures required in this section for jackpot intercepts.

F. Any licensee or permittee searching the database or withholding money in accordance with R.S. 27:24(A) and this Section, shall submit a monthly report to the division by the twentieth day of the month detailing the total number of searches of the DCFS database, the number of matches found, the amount of jackpot winnings withheld, and the amount of administrative fees retained for the preceding month.

G.1. In the event the DCFS database is off-line when a search is made, a licensee shall not be responsible for intercepting cash winnings provided it prints a copy of the screen notification that the system is inaccessible, records the name and prize amount for the winning patron, and timely notifies DCFS of the error to ensure the technical difficulty is not with the licensee. The unavailability of the DCFS database shall not affect interception requirements for second or later progressive slot machine annuity payments.

2. Licensees may notify DCFS that the database is either off-line or experiencing other technical difficulties by electronic mail sent to an address provided by DCFS and approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 37:1415 (May 2011).

Dane K. Morgan
Chairman

1105#012

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services has amended §§555 and 581 under Chapter 5 to provide for 10 days to deliver a sample to the laboratory utilized for analysis, instead of the 7 days currently allowed.

The Rule adds three additional days for a blood sample taken for analysis to be delivered to the laboratory utilized for analysis. Currently the sample is required to be transported to the laboratory at the earliest opportunity after collection, not to exceed 7 days. The Rule allows for not more than 10 days after collection for the sample to be delivered to the laboratory.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 5. Breath and Blood Alcohol Analysis
Methods and Techniques**

Subchapter B. Analysis of Blood

§555. Certified Techniques of Analyst

A. - G.2. ...

3. The blood sample taken for analysis may be maintained at room temperature and delivered to the designated collection site of each enforcement agency within 24 hours of the end of the collecting officer's shift. It shall be transported then to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed 10 days.

H. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:259 (March 1985), LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:2624 (November 2000), LR 37:1416 (May 2011).

**Subchapter C. Analysis of Blood and Urine for
Controlled Dangerous Substances**

§581. Receiving and Sampling of Evidence

A. - B. ...

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within 24 hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed 10 days.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1516 (May 2011).

Jill P. Boudreaux
Undersecretary

1105#022

RULE

Department of Public Safety and Corrections Office of State Police

Breath and Blood Alcohol Analysis Methods and Techniques (LAC 55:I.583)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services has amended §583 under Chapter 5 to add liquid chromatography/mass spectrometry as an approved method for testing blood.

The Rule adds a testing method known as liquid chromatography/mass spectrometry to the methods available to the Louisiana State Police Crime Laboratory, and other permitted labs. Liquid chromatography/mass spectrometry is very similar to gas chromatography/mass spectrometry but it differs in that the sample is carried through the instrument in a liquid phase instead of a gas phase. This results in the sample needing to be prepared differently but the analysis still uses an instrument with mass spectral capabilities.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

§583. Analytical Procedures

A. Analytical procedures shall include the use of at least two tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry or liquid chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g., blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1417 (May 2011).

Jill P. Boudreaux
Undersecretary

1105#023

RULE

Department of Public Safety and Corrections Office of State Police

Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples (LAC 55:1.Chapter 27)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services has amended §§2702-2706, 2721-2722, 2724-2726, and 2742 under Chapter 27 to provide for the use of DNA Database Buccal Collection Kits for the collection of DNA from convicted offenders, as well as arrestees. Previously this type of kit was only used for arrestee samples. The Rule would allow for the use of the less expensive DNA Database Buccal Collection Kit for all collections authorized by law.

The text of this Rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Title 55

PUBLIC SAFETY

Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

Subchapter A. Collection of DNA Samples

§2702. Definitions

AFIS—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

CAJUN—the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

CODIS or *Combined DNA Index System*—the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Crime Laboratory—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Convicted Offender—a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Department—Department of Public Safety and Corrections, Public Safety Services.

Director—the Director of the Louisiana State Police Crime Laboratory.

DNA—deoxyribonucleic acid.

DNA Analysis—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Database—the DNA identification record system maintained and administered by the director.

DNA Database Blood Collection Kit—the kit approved by the department for the collection of DNA blood samples.

DNA Database Buccal Collection Kit—the kit approved by the department for the collection of DNA saliva samples.

DNA Database Information Card (DDIC)—the information card which provides identifying information of the offender when a non-livescan collection is performed.

DNA Record—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DNA Sample—biological evidence of any nature that is utilized to conduct DNA analysis.

DPSC—Department of Public Safety and Corrections.

FBI—Federal Bureau of Investigation within the United States Department of Justice.

FTA—specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001), amended LR 37:1417 (May 2011).

§2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders

A. All DNA samples obtained for DNA analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA database collection kit. Procedures are specific to the type of sample being collected. A different kit is used for blood collection and buccal collection.

1. Each DNA database collection kit shall contain all necessary materials for collection and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each number shall serve as a unique identifier. Kit components shall have the same number.

3. All DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DDIC (for non-livescan collections), which contains the identifying information of the collected offender when obtaining a sample. All information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA blood collection paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA blood collection paper, allowing two drops of blood to fall onto the FTA paper, within the circle. If the blood is not flowing, the finger may be squeezed and then released to facilitate blood flow adequate to yield two drops of blood in each circle. Repeat to collect sample in all circles.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The FTA blood collection paper shall not be touched, nor shall it be allowed to come in contact with any other FTA blood collection paper during the drying and packaging stages.

h. The FTA blood collection paper shall be placed in the plastic specimen bag, along with the dessicant. The sealed plastic specimen bag shall be stapled to the DDIC, which shall then be placed in the white mailing envelope. The mailing envelope flap shall be sealed and an evidence or security label shall then be placed across the envelope flap. The label shall be dated and initialed.

i. In the event a convicted offender resists the taking of the DNA sample and the collector may use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

6. Buccal (saliva) samples shall be obtained using an approved buccal collection kit, in accordance with the guidelines detailed in Subchapter B, §2722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:271 (February 2004), LR 37:1418 (May 2011).

§2704. Shipping of DNA Samples for Convicted Offenders

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the crime laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 37:1418 (May 2011).

§2705. Record Keeping of DNA Samples for Convicted Offenders

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g., refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), amended LR 30:271 (February 2004), LR 37:1419 (May 2011).

§2706. Storage of DNA Samples for Convicted Offenders

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed kit or specimen bag.

B. DNA samples on FTA blood collection paper, DNA buccal samples, and DDIC cards shall be stored indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), LR 37:1419 (May 2011).

Subchapter B. Arrestees

§2721. Definitions

AFIS—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

Arrestee—a person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Biological Sample—biological evidence of any nature that is utilized to conduct DNA analysis.

Crime Laboratory—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Public Safety Services.

Director—the director of the Louisiana State Police Crime Laboratory.

DNA—deoxyribonucleic acid.

DNA Analysis—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Arrestee Database Collection Kit or Kit—the kit provided by the department for the collection of DNA samples.

DNA Database—the DNA identification record system maintained and administered by the director.

DNA Record—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DPSC—Department of Public Safety and Corrections.

FBI—Federal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), amended LR 37:1419 (May 2011).

§2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA arrestee collection kit.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Kit components shall have the same number.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall utilize an AFIS Printout (livescan generated), which contains the identifying information of the arrestee when obtaining a sample.

a. In the event that a manual collection form is used, all information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

b. Buccal biological samples shall be obtained according to the instructions contained in the kit.

c. The transport pouch, containing the buccal collection device, and the AFIS printout shall be placed in the mailing envelope provided. The mailing envelope flap shall be sealed.

d. In the event an arrestee resists the taking of the DNA sample, the collector may use reasonable force in accordance with R.S. 15:601-620.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), amended LR 37:1419 (May 2011).

§2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be

mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:1419 (May 2011).

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g., refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:271 (February 2004), LR 37:1420 (May 2011).

§2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed specimen envelope, and if applicable shall initial and date the broken seal and shall reseal the specimen envelope in accordance with standard operating procedures.

B. DNA samples from arrestees and AFIS printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:1420 (May 2011).

Subchapter C. Peace Officers

§2742. Collection of DNA Samples for Peace Officers

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;
- c. one paper type envelope to store the samples once collected;
- d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

a. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples prior to collection of the specimen.

b. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.

c. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.

d. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.

e. Repeat Subparagraph c of this Paragraph with the remaining swab.

f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.

g. Seal the paper type envelope. Write the date and collector's initials partially on the paper type envelope and partially on the envelope flap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004), amended LR 37:1420 (May 2011).

Jill P. Boudreaux
Undersecretary

1105#025

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs Economic Stability Section

Exempt Earned Income Tax Credit (EITC) Payments (LAC 67:III.1975)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services (DCFS), proposes to amend the *Louisiana Administrative Code* (LAC), Title 67, Part III, Subpart 3, Section 1975, Earned Income Tax Credit (EITC).

Pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Section 728, P.L. 111-312) enacted on December 17, 2010, the agency must exclude as income and as resources for a period of 12 months from the month received, Federal tax refunds received after December 31, 2009, in all Federal means-tested programs. In accordance with the Food and Nutrition Services (FNS) Supplemental Nutrition Assistance Program (SNAP) policy memo dated February 07, 2011, Section 1975 of Subpart 3, Chapter 19, Subchapter I is being revised to disregard Earned Income Tax Credit (EITC) payments as a resource for a period of 12 months from the date of receipt.

Action is required in this matter in order to avoid sanctions and penalties from the United States (R.S. 49:953(B)). If the agency does not follow the federal law regarding excluding federal tax refunds, the department may be subject to sanctions and penalties. This action was made effective by an Emergency Rule dated April 10, 2011.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 3. Supplemental Nutrition Assistance Program (SNAP)

Chapter 19. Certification and Eligible Households

Subchapter I. Income and Deductions

§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, Section 728 P.L. 111-312.

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:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rule may have a positive effect because it may allow more families to receive benefits. Currently households receiving Earned Income Tax Credit (EITC) payments are counted as resources. These payments will no longer be counted as a resource for a period of 12 months from the date of receipt.

5. What effect will this have on the behavior and personal responsibility of children? This Rule has no effect on the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are agency functions.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

All interested persons may submit written comments through, June 27, 2011 to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Division of Programs, Post Office Box 94065, Baton Rouge, LA, 70821-9065.

Public Hearing

A public hearing on the proposed Rule will be held on June 27, 2011 at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Bureau at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-1502 (Voice and TDD).

Ruth Johnson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exempt Earned Income
Tax Credit (EITC) Payments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend the Louisiana Administrative Code, LAC 67:III, Subpart 3, Chapter 19, Subchapter I, Section 1975. The proposal rule disregards Federal tax refunds (i.e. Earned Income Tax Credit (EITC) payments) as income and as resources, for a period of 12 months from the date of receipt, when determining income eligibility of Supplemental Nutrition Assistance Program (SNAP).

As a result of this proposed rule, the Department of Children and Family Services (DCFS) anticipates there may be an indeterminable increase in the number of individuals receiving SNAP benefits due to the elimination of EITC payments as income. SNAP benefits are paid with 100% Federal funds and will have no State General Fund impact.

Although the programmatic impact is unknown, the only anticipated cost to the State associated with this proposed rule is the cost of publishing rulemaking that is estimated to be \$1000. The cost of rulemaking is routinely included in the Agency's budget annual operating budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

SNAP benefits are paid with 100% Federal funds. Although the department anticipates implementation of this proposed rule to increase Federal funds revenue collections, the amount of revenue increase is indeterminable.

Implementation of the proposed rule will have no effect on revenue collections of local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

As a result of this proposed rule, DCFS anticipates there may be an increase in the number of individuals receiving SNAP benefits due to the elimination of EITC payments as income. However, the number of individuals that may become eligible is indeterminable. Also, this proposed rule may result in existing SNAP recipients receiving increased monthly benefit allotments. The exact amount of the increase in monthly benefits to existing SNAP recipients is indeterminable.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The department does not anticipate that this proposed rule will have any impact on competition and employment.

Sammy Guillory
Deputy Assistant Secretary
1105#072

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.103, 305, 509, 515,
518, 519, 701, 901, 1101, 1303, 1305,
1501, 1503, 1801, 1903, and 2701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools: §103. Definitions, §305. BESE Duties Relating to Charter*

Schools, §509. Eligibility to Apply for a Type 5 Charter School, §515. Charter School Application Components, §518. BESE Pre-Opening Procedures Following Approval, §519. Local School Board Consideration of Charter Application, Awarding of Charters, §701. Charter School Contract with BESE, §901. Timeline for Charter School Opening, §1101. Charter School Evaluation, §1303. Third Year Review, §1305. Fourth Year Review of Charter Schools on Contract Probation, §1501. Renewal of Charter, §1503. Charter Renewal Process and Timelines, Chapter 18. Voluntary Relinquishment of a BESE-Authorized Charter, §1903. Material Amendments for BESE-Authorized Charter Schools, and §2701. Students Eligible to Attend. The update will bring Bulletin 126 into compliance with existing law regarding geographic attendance zones, letter grades for schools, and the academically unacceptable school status bar. Additionally, the update will clarify the specific pieces that are required as part of a charter school application to bring it in line with national best practices. The update also revises the extension process to include a pre-assessment index that provides a baseline for measuring student growth, moves all extension decisions to January, and moves the extension process to January of the fourth academic year, and removes mandatory recommendations for revocation of a charter during the extension process. The update also revises the oversight process to include the Financial Risk Assessment and clear criteria for major or minor legal and contractual offenses, which will create a fairer process in which schools are not handled harshly for minor offenses. Finally, the proposed changes will create clear criteria for automatic renewals and the growth of existing charter schools through enrollment or grade level expansion.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - D. ...

E. *Charter Operator*—the nonprofit corporation or school board authorized to operate a charter school.

F. - N. ...

O. *Local School Board*—any city, parish, or other local education agency.

P. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:

Chapter 3. Charter School Authorizers

§305. BESE Duties Relating to Charter Schools

A. - A.3. ...

4. to notify local school boards of the receipt of any Type 2 charter school application for a school which is proposed to be located within the district. In addition, the local board as well as other interested groups shall be allowed to provide written information regarding any charter application and be allowed to present information at a scheduled public meeting of BESE prior to any determination being made by BESE; and

5. to fulfill all other obligations created by state and federal law with respect to students attending charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:

Chapter 5. Charter School Application and Approval Process

§509. Eligibility to Apply for a Type 5 Charter School

A. - A.5. ...

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to apply for a Type 5 charter, but shall in no way limit the information required in §513.C, Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:

§515. Charter School Application Components

A. - C. ...

D. The charter school application questions for all types of charter schools shall address the following:

1. an executive summary;
2. the role, scope, and mission of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve;
3. admission requirements, if any, that are consistent with the school's role, scope, and mission may be established in accordance with that permitted in Charter School Law and this bulletin;
4. a description of the jurisdiction within which a pupil shall reside or otherwise be eligible to attend a public school in order to be eligible for admission;
5. beginning with the 2011-2012 school year, for each elementary and middle charter school, other than a Type 2 charter school, a description of the geographic boundaries circumscribing the neighborhood immediately surrounding the charter school from which students residing within may be given preference for enrollment in accordance with R.S. 17:3991;
6. the grades to be served each year for the full term of the charter contract;
7. minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;
8. evidence of community support for the proposed public charter school;
9. a description of how the proposed charter school fulfills one or more of the purposes specified in the Charter School Law and this bulletin;
10. background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;
11. the school's proposed calendar and sample daily schedule;
12. the school's proposed curriculum, a description of how it aligns with state standards, and how it will meet the needs of the targeted student population;
13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and

how that program will meet the needs of the at-risk students to be served;

14. the school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and gifted students in order to comply with applicable laws and regulations;

15. the school's plan for using internal and external assessments to measure and report student progress and a description of how such assessments align with state standards;

16. a description of co-curricular or extracurricular programs and how they will be funded and delivered;

17. plans and timelines for the school's recruitment, enrollment, and admission process;

18. school rules and regulations applicable to students, including disciplinary policies and procedures for all students, including those with exceptionalities, that incorporate research-based discipline practices such as positive behavior interventions and supports restorative justice principles in accordance with R.S. 17:252;

19. an organizational chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies (such as advisory bodies or parent and teacher councils), and any external organizations that will play a role in managing the school;

20. a plan for complying with applicable public body laws;

21. a clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

22. a staffing chart for the school's first year, and a staffing plan for the term of the charter;

23. plans for recruiting and developing school leadership and staff;

24. personnel policies and employment practices applicable to the school's officers and employees;

25. the manner in which teachers, leaders, and other school employees will be evaluated;

26. proposed governing bylaws;

27. explanations of any partnerships or contractual relationships central to the school's operations or mission;

28. the school's plans for providing transportation, food service, and all other significant operational or ancillary services;

29. policies, programs, and practices to ensure parental involvement and procedures to respond to parental complaints;

30. a detailed school start-up plan, identifying tasks, timelines and responsible individuals;

31. description of the school's financial plan and policies sufficient to permit a government audit, including financial controls and audit requirements;

32. management and accounting practices to be employed;

33. a description of the insurance coverage the school will obtain;

34. start-up and five-year budgets with clearly stated assumptions;

35. start-up and first-year cash-flow projections with clearly stated assumptions;

36. evidence of anticipated fundraising contributions, if claimed in the application; and,

37. the specific academic and other educational results to be achieved, the timelines for such achievement, and how results will be measured and assessed;

38. an agreement to provide a report at the end of each semester to parents of pupils enrolled in the school, the community, the local school board, and the state board indicating progress toward meeting the performance objectives as stated in the charter;

39. information concerning the school location and the adequacy of its facilities and equipment. Such information shall include a statement of the procedures to be followed and disposition of facilities and equipment should the charter be terminated or not renewed;

40. management and accounting practices to be employed;

41. provisions regarding liability issues;

42. assurance that the curriculum of the proposed charter school shall be focused on the intellectual domain with intellectual development defined as acquisition of discrete technical and academic skills;

43. assurance that the proposed charter school will regularly assess the academic progress of its students, including the participation of such students in the state testing programs, and the sharing of such information with parents;

44. assurance that students shall have a mastery of grade-appropriate skills before they can be recommended for promotion or promoted;

45. provisions regarding the safety and security of the school;

46. provisions regarding electronic communications by an employee of the charter school to a student enrolled at the charter school;

47. provisions regarding the inspection and operation of all fire prevention and safety equipment at the school; and

48. a plan for collecting data in accordance with R.S. 17:3911.

E. In the case of a proposed public charter school that intends to contract with a management organization for substantial educational services, management services, or both types of services, the request for proposals shall additionally require the applicants to:

1. provide evidence of the management organization's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of non-academic school functions if applicable;

2. provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the management organization; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

3. disclose and explain any existing or potential conflicts of interest between the school governing board and proposed management organization or any affiliated business entities.

F. In the case of a public charter school proposal from an applicant that is itself or is using a management organization that currently operates one or more schools in any state or nation, the request for proposals shall additionally require the applicant to provide evidence of past performance and current capacity for growth.

G. Type 1 and Type 2 charter school applications shall describe how the charter school will serve the percentage of at-risk students defined in the Charter School Law and in Section 2713 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:

§518. BESE Pre-Opening Procedures Following Approval

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements developed by the department prior to executing a charter contract and prior to opening a school.

B. The department must certify completion of the pre-opening requirements to the president of the BESE prior to the execution of the charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:

§519. Local School Board Consideration of Charter Application, Awarding of Charters

A. Local school boards shall review and formally act upon each Type 1 or Type 3 application within 90 days in the order in which it was submitted.

B. Local school boards shall carefully review each Type 1 and Type 3 charter school application they receive and may approve a charter application only after it has made a specific determination that the determine whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 37:

Chapter 7. Charter School Performance Contract §701. Charter School Contract with BESE

A. ...

B. The charter school contract shall define the performance standards to which the charter school will be held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to, provisions regarding the establishment of the charter school; the operation of the charter school; charter school financial matters; charter school personnel; charter term, renewal and

revocation; and other provisions determined necessary by BESE. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate, including but not limited to, the pre-opening requirements; education service provider contract, if applicable; student discipline policy; and student enrollment.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:

Chapter 9. Opening of Charter School

§901. Timeline for Charter School Opening

A. - B. ...

C. A charter school other than a Type 5, once approved, may begin operation only in July, August, or September of a given year.

D. A charter school other than a Type 5 shall not begin operation sooner than eight months after approval of the charter school has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR :37:

Chapter 11. Ongoing Review of Charter Schools

§1101. Charter School Evaluation

A. - B.3. ...

C. BESE shall receive a report on the review of Type 2, Type 4, and Type 5 charter schools not later than January of each year. This annual review will be used in charter contract extension determinations.

1. During its renewal term, each charter school will be subject to regular site visits and contract review on a schedule established by the Department of Education.

2. A charter school under long-term renewal (five or more years), whose academic performance declines for three consecutive years, will be subject to a formal evaluation and contract review by LDOE. Based on the results of its evaluation, the department may recommend one of the following actions:

a. the charter school be placed under a Memorandum of Understanding (MOU) that outlines specific recommendations for improving performance; or

b. revocation.

D. - D.4. ...

5. Charter School's First Year of Operation (Year One)

a. In the fall of each charter school's first year of operation, the Department of Education shall provide each charter school with a pre-assessment index.

b. The pre-assessment index will consist of the test results of the students enrolled in the charter school from the immediately preceding spring state testing, where available.

5.c. - 6.a. ...

b. Assessment index year one will be reported not later than January of a charter school's second year of operation.

7. - 7.a.ii.(d).table. Repealed.

8. Charter School's Fourth Year of Operation (Year Four)

a. In each charter school's fourth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS); growth school performance score (SPS); assessment index year three; and required growth.

i. The following indicators will be measured not later than January of a charter school's fourth year of operation.

(a). - (c). ...

(d). The evaluation indicator standards measured not later than January of a charter school's fourth year of operation, as applicable, based on year three data shall be as follows.

Indicator (January)	Standard
Baseline SPS	Above Academically Unacceptable Status
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Three	Above Academically Unacceptable Status or growth of 15 points from pre-assessment index

ii. - ii.(c). table. Repealed.

b. Type 5 charter schools transferred to the recovery school district (RSD) pursuant to R.S. 17:10.5 will also be evaluated pursuant to R.S. 17:10.5 no later than January of the Type 5 charter school's fourth year of operation.

9. Charter School's Fifth Year of Operation (Year Five)

a. In each charter school's fifth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS), growth school performance score (SPS), and assessment index year four.

i. The following indicators will be reported not later than January of a charter school's fifth year of operation:

(a). - (c). ...

(d). The evaluation indicator standards reported not later than January of a charter school's fifth year of operation based on year four data shall be as follows.

Indicator (January)	Standard
Baseline SPS	Above Academically Unacceptable Status
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Four	Above Academically Unacceptable Status or growth of 20 points from pre-assessment index

10. - 10.a.ii. ...

iii. Assessment Index. In the fall of each year of operation for charter schools, an assessment index will be determined for the charter school until the charter school receives an SPS pursuant to Bulletin 111. The assessment index received in a particular year will be based on assessment data from the previous year aggregated as defined in Bulletin 111.

D.10.b. - E.2. ...

3. Financial performance shall be assessed annually using the financial risk assessment framework approved and adopted by BESE. The financial risk assessment shall:

a. monitor the following external conditions encountered by charter operators that, if not addressed, could render the school financially vulnerable; and

i. student enrollment factors:

(a). declines in public school enrollment;

ii. trends in fiscal conditions:

(a). total current expenditures per pupil is 90 percent or less of state average: short-term reaction of school systems is to reduce expenditures—this serves as indicator of ability of school system to cut expenditures if required;

(b). relationship between accountability scores and per pupil expenditure: another measure of ability of school system to cut expenditures and expected outcome on accountability scores;

iii. future obligations:

(a). school systems with 15 percent above the state average of school employees projected to retire within the next five years: indicates that over 45 percent of school system personnel has 15 or more years of service;

iv. status of business certification of business official:

(a). is current business official in process of being certified under R.S.17:84.2;

b. identify the following internal factors that could lead to weaknesses or challenges in the financial operations of an operator.

i. Level 1—Fiscal Management/Behavior. School systems meeting the criteria in this category have problems because they have not implemented financial management practices that are designed to ensure good internal controls in their systems; therefore, if not addressed the risk is higher that these smaller problems could lead to more severe problems in the future.

(a). Submittal of General Fund Budget Form A by September 30 as required by law (submittal of annual operating budget by July 31 for charter schools).

(b). Submittal of final AFR by October 31.

(c). Audit Opinion—internal control on government auditing standards.

(d). Single audits—consecutive audit findings.

(e). Known material fraud in any program.

ii. Level 2—Identified Problems Having Fiscal Impact. Items in this category may indicate the mismanagement of a program to the degree that funds must be repaid (referred to as a questioned cost). The school system is required to repay these funds to the federal government, unless a CAROI agreement is established by the LDE. This agreement allows for funds to remain in the school system to correct the systematic problem and enhance the program. These types of problems can be corrected but must be directly addressed and closely monitored to ensure this does not continue.

(a). Questioned costs from A-133—single audit report.

(b). Questioned costs from program monitoring review.

(c). Questioned costs from fiscal monitoring review.

iii. Level 3—Auditing Outcomes. Items in this category may indicate that the independent auditor has found a critical problem in these areas of a school system's financial operations. The severity of the problem will be indicated by the type of the opinion issued. Problems such as these can be corrected but must be directly addressed by the school system and then closely monitored.

(a). Audit Opinion—general purpose financial statements.

(b). Audit Opinion—schedule of expenditures of federal programs.

(c). Audit Opinion—compliance with laws and regulations on federal programs.

iv. Level 4—Problems with Balanced Budgets and Fund Balances. Items in this category may indicate there could be, or there already exists, cash flow problems in a school system. These types of problems must be addressed immediately or the school system could be at risk of insolvency.

(a). General Fund Deficit Spending. General fund deficit spending may be acceptable in certain instances. In such instances correspondence from the district is necessary to justify the deficit spending.

(b). General fund balance as a percentage of general fund revenues.

v. Level 5—Major Events

(a). Going Concern Opinion. Items in this category indicate that problems already exists in a school system that put the entity at risk of being able to continue operations.

(b). New School System or Major Event. A school system categorized in this manner requires LDE to closely monitor the development and implementation of appropriate systems, policies, and procedures to ensure successful provision of educational services to students as a result of being newly formed or having experienced a special event.

4. The financial risk assessment shall be the primary factor in determining the financial performance of a charter school.

5. The financial risk assessment shall result in one of the following actions:

a. no action. The school's fiscal health is determined to be satisfactory and does not require continued departmental monitoring; or

b. monitoring. The department will monitor specific aspects of the financial risk assessment, in order to assure continued progress in areas that have been problematic in the past; or

c. dialogue. The department will conduct a detailed review of the school's finances and financial practices; follow-up may include, but not be limited to, discussions between department staff and school leadership regarding issues of major concern, a formal site visit, or recommended action by BESE in order to address deficiencies.

6. Charter schools in their first year of operation shall be provided a financial practices self-assessment in order to determine the extent to which the school is positioned for strong financial performance.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:

Chapter 13. Charter Term

§1303. Third Year Review

A. ...

B. Each Type 2, Type 4, and Type 5 charter school's comprehensive report and its third year evaluation shall be used to determine if the school will receive a two-year extension, as follows.

1. Contract Extension

a. Each charter school shall provide a comprehensive report to its chartering authority at the end of the third year, to be considered in addition to the academic, financial, and legal and contractual performance data collected by the department for the charter school's first three years. If such report and performance data reveal that the charter school is achieving the following goals and objectives, the board shall, by January of the school's fourth year, permit the charter school to complete the remainder of its initial five-year term:

i. a financial risk assessment evaluation that has not been deemed to require "dialogue" as set forth in §1101.E; and

ii. no violation of legal or contractual standards as defined in §1101.F.3; and

iii. one of the following student performance standards:

(a). SPS Year Three is above AUS status;

(b). Assessment Index Year Three is above AUS status; or

(c). Assessment Index increase of 15 points from the pre-assessment index.

b. A Type 5 charter school authorized pursuant to R.S. 17:10.5 meeting the standards set forth in Subparagraph B.1.a of this Section, but not meeting any standard set forth in R.S. 17:10.5, will receive a one-year extension.

b.i. - c. Repealed.

2. Schools that fail to meet Extension Standards

a. If a charter school fails to meet any of the standards set forth in Paragraph B.1 of this Section, BESE may, at the superintendent's recommendation, take one of the following actions:

i. grant the school a one year probationary extension with conditions or other required actions;

ii. revoke the school's charter if the school has committed any of the violations listed in §1701.

3. Contract Probation

a. A charter school placed on contract probation shall:

i. comply with the conditions set forth in the extension determination; and

ii. submit progress reports as required by the department outlining the progress it has made towards improving its performance.

b. The department shall notify the charter operator in writing within 10 days of the decision to place the school on probation, indicate the reasons for probation, and describe the specific actions or outcomes required.

i. If a school placed on contract probation has resolved all of the issues related to its initial probation status,

BESE may, at the superintendent's request, vote to remove probationary status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:

§1305. Fourth Year Review of Charter Schools on Contract Probation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), repealed LR 37:

Chapter 15. Charter Renewal

§1501. Renewal of Charter

A. - B. ...

C. No charter shall be renewed unless the charter operator seeking renewal can demonstrate, at a minimum, using standardized test scores, improvement in the academic performance of students over the term of the charter school's existence.

D. A charter may be renewed for additional periods of not less than three nor more than ten years after thorough review by the approving chartering authority of the charter school's operations and compliance with charter requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:

§1503. Charter Renewal Process and Timeline

A. - B.1.a. ...

2. The state's assessment and accountability program assigns performance labels to all schools based on school performance scores. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school's performance label (based on the school's performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

School Performance Labels and Maximum Charter Renewal Terms	
Performance Label	Maximum Renewal Term
F	3 years
D	3 Years
C	5 Years
B	10 Years
A	10 years

3. A school will be allowed a maximum of two consecutive three-year renewal terms.

4. - 5.a. ...

b. a charter school in its initial term that is in AUS status, but which met its growth target at the end of year four or which has a growth performance score of above AUS may be renewed for a term not to exceed three years;

c. a charter school in its initial term that is in AUS status, but where fewer than 30 percent of its enrolled grades

are testable under state accountability, may be renewed for a term not to exceed three years;

d. if, in the superintendent’s judgment, the non-renewal of an AUS status charter school in its initial charter term would likely require many students to attend lower performing schools, and the superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful;

e. the school has made 20 points of assessment index growth from its pre-assessment index.

C. Financial Performance

1. Each charter operator is required to engage in financial practices, financial reporting, and financial audits to ensure the proper use of public funds and the successful fiscal operation of the charter school. The charter school shall be evaluated using the financial risk assessment as defined by BESE. The financial risk assessment shall:

a. monitor external conditions encountered by charter operators that, if not addressed, could render the school financially vulnerable; and

b. identify internal factors that could lead to weaknesses or challenges in the financial operations of an operator.

2. The financial risk assessment shall be the primary factor in determining the financial performance of a charter school.

3. A charter contract will not be renewed if the charter has failed to demonstrate over the term of its charter, the fundamental ability to operate a fiscally sound charter school, as evidenced by repeated failure to adhere to the financial standards articulated in this Section.

4. BESE Standards for Financial Performance. BESE shall, reduce the renewal term by a year for any charter school that has been found to require “monitoring” or “dialogue” as part of their most recent fiscal risk assessment. No term shall be less than three years.

5. A charter contract will be non-renewed if the charter has failed to demonstrate over the term of its charter, the fundamental ability to operate a fiscally sound charter school, as evidenced by repeated failure to adhere to the financial standards articulated above.

D. Legal and Contract Performance

1. BESE will include a charter school’s compliance with its statutory, regulatory, and contractual obligations and all reporting requirements in its renewal decision. BESE’s evaluation shall be based on, but not limited to, the following indicators.

Indicator	Standard
Special Education and ELL Program	Pursuant to applicable law and regulation and contract provisions
Student Enrollment	Pursuant to applicable law and regulation and contract provisions
Student Discipline	Pursuant to applicable law and regulation and contract provisions
Health and Safety	Pursuant to applicable law and regulation and contract provisions
Governance	Pursuant to applicable law and regulation and contract provisions
Facilities	Pursuant to applicable law and regulation and contract provisions

2. - 3. ...

E. Initial Renewal for BESE-Authorized Charter Schools

1. In October of each charter school’s fifth year, the charter operator will be required to submit a request for renewal to BESE in accordance with LDOE guidelines.

2. Not later than January of the charter school’s fifth year, the department will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school’s student, financial, and legal and contractual performance during years one through four of the charter contract.

3. Based on the school’s academic, financial, and contractual performance, the department may recommend one of three actions:

a. renewal for the maximum term identified in the School Performance Labels and Maximum Charter Renewal Terms table;

b. renewal for a shorter term (based on deficiencies in financial and/or legal/contract performance, although not to be less than three years); or

c. non-renewal.

4. The State Superintendent of Education may recommend a corrective action plan as a condition for renewal for any charter school that qualifies for renewal, but fails to fully meet any performance standards.

5. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

F. - F.2. ...

3. Not later than January of the charter school’s final contract year, the department will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school’s student, financial, legal and contractual performance during its current charter contract.

4. Based on the school’s academic, financial, and legal and contractual performance over the current charter contract term, the department may recommend one of the following actions:

a. renewal for the maximum term identified in the School Performance Labels and Maximum Charter Renewal Terms table, with the addition of one year to the charter term for every year that the school’s growth target was met, not to exceed a maximum term of ten years;

b. renewal for a shorter term (based on deficiencies in financial and/or legal/contract performance); or

c. non-renewal.

5. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

G. Automatic Renewal of Charter Schools

1. A charter school which has met or exceeded for the three preceding school years the benchmarks established for it in accordance with the school and district accountability system, has demonstrated growth in student academic achievement for the three proceeding schools years, and has had no significant audit findings during the term of the charter agreement shall be deemed a high-performing school, and such school's charter shall be automatically renewed.

2. A charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in Subsection E or F of this Section, as appropriate:

Current School Performance Label	Other requirements (must meet all)	Eligibility
F	Not applicable	Not eligible for automatic renewal
D	<ul style="list-style-type: none"> • 10 points of academic growth in past 2 years • no violations of legal or contractual standards, as defined in §1101.F.3.; and • No issues requiring "Dialogue" in two most recent Financial Risk Assessments 	Will be automatically renewed
C	<ul style="list-style-type: none"> • 5 points of academic growth in past 2 years • no violations of legal or contractual standards, as defined in §1101.F.3.; and • No issues requiring "Dialogue" in two most recent Financial Risk Assessments 	Will be automatically renewed
B or A	<ul style="list-style-type: none"> • Academic improvement over charter term • no violations of legal or contractual standards, as defined in §1101.F.3.; and • No issues requiring "Dialogue" in two most recent Financial Risk Assessments 	Will be automatically renewed

3. The automatic renewal term shall be in line with the terms specified in Paragraph B.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:

Chapter 18. Voluntary Relinquishment of a BESE-Authorized Charter

§1801. Voluntary Relinquishment of a BESE-Authorized Charter

A. If the operator or board of a BESE authorized charter school determines that it can no longer operate the charter school, it shall relinquish the charter to BESE at least 90 days prior to the beginning of the next school year.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:873 (March 2011), LR 37:

Chapter 19. Amendments to BESE-Authorized Charters

§1903. Material Amendments for BESE-Authorized Charter Schools

A. - D. ...

E. BESE shall not approve a material amendment to a school's charter regarding Paragraphs A.3 and A.4 of this Section unless the following conditions have been met, as determined by the department:

1. no violations of legal or contractual standards, as defined in §1101.F.3; and

2. is not in "dialogue" with the department, as defined in §1101.E.6.c; and

3. one of the following student performance standards:

a. the school's most recent performance label was a "C" or higher; or

b. not allowing the expansion into new grades or acceptance of greater numbers of students would result in students attending a lower performing school; or

c. the school has made ten points of academic growth over the previous two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. - D. ...

E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a Type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. Type 5 charter schools shall not reserve more than 20 percent of spots in each grade level served for such enrollment preference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:873 (March 2011), LR 37:

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 19, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Catherine R. Pozniak
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rules update Bulletin 126 to bring it into compliance with existing law, clarify the required parts of a charter school application, provide for a revised extension and renewal process, provide for revised ongoing oversight policies that bring charter schools in line with other public schools, provide for an automatic renewal process, and clarify the requirements for charter schools interested in expanding their enrollment or grade configuration. To the extent that this policy shall allow for the growth of charter schools in the state, state and local per pupil allocations through the state’s Minimum Program Foundation formula could change by an undeterminable amount. The proposed policy is estimated to cost \$164 for advertising in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed policy will have no effect on revenue collections of state and local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed policy changes will not increase costs or provide any new economic benefits to individuals or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed policy could result in the creation of new charter schools within school districts across the state. To the extent that these schools will operate in competition with district schools for students, faculty, and resources, it will have an undetermined effect on competition and employment in the state.

Beth Scioneaux
Deputy Superintendent
1105#073

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Bylaws of the Advisory Committee to the Student Financial Assistance Commission (LAC 28:V.221)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1).

The proposed rulemaking will change the composition of the membership of the Commission’s Advisory Committee and the method of selection of some of the members. (AC11128NI)

**Title 28
EDUCATION**

**Part V. Student Financial Assistance—Higher
Education Loan Program**

**Chapter 2. Bylaws of the Advisory Committee to the
Student Financial Assistance Commission
Subchapter C. Membership and Officers of the
Committee**

§221. Membership

A.1. The committee shall be composed of eight voting members, who shall be the financial aid director or his/her designee representing the Louisiana State University System, the Southern University System, the University of Louisiana System, the Louisiana Community and Technical College System, the Professional Schools, the Louisiana Association of Independent Colleges and Universities, and proprietary schools selected by the Louisiana Career College Association; a student member through September 30, 2010; and beginning October 1, 2011, one active public high school counselor and one active non-public high school counselor appointed by the Louisiana School Counselor Association.

A.2. - B.7.b. ...

8. Student—Through September 30, 2010:

a. A student member shall be selected by the financial aid officer who is a member of the Advisory Committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.

b. Student members shall serve one year terms and may not serve two consecutive terms.

c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

9. High School Counselors—Beginning October 1, 2011:

a. One active public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be one year.

b. One active non-public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be two years.

C. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008).

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. The proposed rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (AC11128NI) until 4:30 p.m., June 9, 2011, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bylaws of the Advisory Committee to the
Student Financial Assistance Commission**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rulemaking changes the Advisory Committee membership by deleting the student member and adding public and non-public high school counselors to the Committee's membership. These changes will have a minimal impact on costs since the only compensation allowed for committee members is reimbursement of travel expenses, as applicable.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state and local governments will not be affected by the proposed changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment resulting from these measures.

Melanie Amrhein
Executive Director
1105#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Certified Social Worker Examiners**

Social Work (LAC 46:XXV.Chapters 1-9)

The Louisiana State Board of Social Work Examiners intends to amend the rules, standards and procedures following the adoption of Act 880 in January 2011, which implement the Louisiana Social Work Practice Act, R.S. 37:2701-2724. These amendments will apply to all credentialed social workers and amend §111.Practice Requirements, §301.Definitions, §303.Practice, §305.Qualifications for Registration, Certification, Licensure, §307.Administration of Examination, §309.Application Procedure, §311.Renewals and Cancellation, §313.Fees, §317.Continuing Education Requirements, §319.Reciprocity and Endorsement, §501.The GSW Who Pursues the LCSW Credential, or Who Provides Clinical Services Which Constitute Psychotherapy Must Be Supervised, §503.GSWs Seeking the LCSW Credential, §505.The GSW Not Receiving BACS Supervision or the Provisional GSW Not Eligible for BACS Supervision, §703.Purpose, §901.Authority, §903.Complaint Origination, §905. Investigation Procedures, §907.Disposition of an Investigation, §919.Motions for Continuance of Hearing, §925.Designation of Hearing Panel, Disqualification and Replacement, and §945.Declaratory Ruling.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXV. Credentialed Social Workers

Chapter 1. Standards of Practice

§111. Practice Requirements

A. - G.5. ...

6. Social workers shall not retain copies of client records after separation from an agency or employer without written agency/employer's consent.

H. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000), amended LR 37:

Chapter 3. General Provisions

§301. Definitions

* * *

Credential—can be the registration (RSW), certification (CSW) or license (LMSW) and (LCSW) regulated by the Louisiana Social Work Practice Act.

* * *

Supervisee—any person under the supervision of a credentialed social worker. The supervisee may be an applicant for social work credentials, an employee under the supervision of the LCSW, LMSW, CSW or RSW, or a person who contracts with the licensed clinical social worker for supervision.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000), amended LR 34:247 (February 2008). LR 37:

§303. Practice

A. Social Work Practice. Any person practicing social work without license, certification, or registration is subject to the provisions of R.S. 37:2720, including injunctive proceedings and prosecution.

B. - C.4. ...

D. Licensed Master Social Workers and Certified Social Workers shall not:

1. - 4. ...

E. Licensed Master Social Workers and Certified Social Workers may:

1. ...

F. Applicants for registration, certification, or licensure who indicate on their application that they have been employed or engaged in independent practice as a social worker in the state of Louisiana are subject to the provisions of R.S. 37:2720.

G. In accordance with R.S. 37:2709, which states in part that the license, certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, or registration or a copy of the original certificate of license, certification, or registration, or the

current identification card received from the board upon renewal of the license, certification, or registration.

G.1. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2382 (November 2003), LR 34:1401 (July 2008), LR 37:

§305. Qualifications for Registration, Certification, Licensure

A. Registered Social Worker (RSW)

1. Must be of good moral character. As one element of good moral character, the board shall require each applicant to submit a full set of fingerprints for the purpose of obtaining state and federal criminal records check, pursuant to authorizing state statute and applicable federal law. The state agency responsible for managing fingerprint data may submit fingerprints to and exchange data with the FBI. All good moral character information, including the information obtained through criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

2. ...

B. Licensed Master Social Worker (LMSW)

1. Must be of good moral character. As one element of good moral character, the board shall require each applicant to submit a full set of fingerprints for the purpose of obtaining state and federal criminal records check, pursuant to authorizing state statute and applicable federal law. The state agency responsible for managing fingerprint data may submit fingerprints to and exchange data with the FBI. All good moral character information, including the information obtained through criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

2. - 3. ...

4. Repealed.

C. Certified Social Worker (CSW)

1. The board may issue certification to an applicant who meets all requirements for the LMSW except for passing the examination approved by the board.

2. The individual may hold the certification for up to three years from the date of issuance of the original certificate provided the individual takes the examination approved by board within first 6 months after certification and annually for the next 2 1/2 years.

3. It is the responsibility of the CSW to submit proof of examination to the board office once each year of eligibility.

4. The CSW who does not pass the examination for the LMSW within three years from the date of issuance of the original certification may apply for the registered social work credential.

5. In the event that the CSW does not take the examination for the LMSW within the first 6 months of issuance of the original certificate or yearly thereafter, the CSW certificate will be subject to recall by the board and the CSW will be recorded as invalid in the board's database.

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character. As one element of good moral character, the board shall require each applicant to submit a full set of fingerprints for the

purpose of obtaining state and federal criminal records check, pursuant to authorizing state statute and applicable federal law. The state agency responsible for managing fingerprint data may submit fingerprints to and exchange data with the FBI. All good moral character information, including the information obtained through criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2383 (November 2003), LR 34:1401 (July 2008), LR 37:

§307. Administration of Examination

A. - B.1. ...

2. Applicants for the LCSW license must submit an employment verification form for each place of employment after receipt of the MSW degree.

3. The board shall observe the retake policy of the testing service.

4. Repealed.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), repromulgated LR 29:2383 (November 2003), amended LR 37:

§309. Application Procedure

A. - E. ...

F. The application fee for licensure, certification, or registration is non-refundable and must be submitted in the form of a money order, certified check, or by credit card.

G. As one element of good moral character, the board shall require each applicant to submit a full set of fingerprints for the purpose of obtaining State and Federal criminal records check, pursuant to authorizing state statute and applicable Federal Law. The state agency responsible for managing fingerprint data may submit fingerprints to and exchange data with the FBI. All good moral character information, including the information obtained through criminal records checks, shall be considered in licensure decisions to the extent permissible by all applicable laws.

H. Applicants for the LCSW license must submit an employment verification form for each place of employment in Louisiana after receipt of the MSW degree.

I. Applicants for the LCSW license must submit proof of 5760 hours of postgraduate social work practice. 3,840 of the 5760 hours of accumulated social work experience shall be in a setting practicing social work under the supervision of a board-approved clinical supervisor and submitted on the forms provided by the board.

J. Non-resident applicants may submit proof of 3840 hours or equivalent months of accumulated supervised experience completed out-of-state on the forms provided by the board and given by a social worker licensed at a level equivalent to the LCSW license.

K. Non-resident applicants may submit verification of 5760 hours or equivalent months of out-of-state accumulated social work employment to qualify for the LCSW license.

L. The application for licensure, certification, and registration shall include the applicant's Social Security number in accordance with R.S. 37:23. Submission is not optional.

M. The official transcript from a university accredited by the Council on Social Work Education verifying receipt of a master's degree must be received directly from the university.

N. An applicant shall be deemed to have abandoned the application if the requirements for the credential are not completed within one year of the date on which the application was received. An application submitted subsequent to the abandoned application shall be treated as a new application.

O. Initial social work credentials issued during the last quarter of the fiscal year, (i.e., April, May or June) will not be required to renew for the next fiscal year.

P. Procedure for Social Workers with Felony Convictions

1. The burden of proof for submitting the requested documentation is the responsibility of the BSW or MSW applicants in order to convince the Louisiana State Board of Social Work Examiners that he/she has good moral character and fitness to practice social work.

2. The BSW or MSW applicant should collect and deliver the following documents to the board office promptly:

a. copies of all court records containing information of the conviction and the imposition of sentence;

b. the current name, address, and telephone number of the judge who imposed sentence and who presided at the trial and/or accepted any plea upon which the felony conviction was based;

c. any documentation or records which reflect the term of any probationary period, the conditions of probation and the fulfillment and completion of all terms and conditions of probation;

d. the current name(s), addresses and telephone numbers of any probation officers or persons of similar title or job function to whom the applicant has reported or who has any information concerning the applicant's conduct during any probationary period;

e. if any form of restitution to a victim or victims was part of a sentence imposed or a condition of probation the applicant must provide the names, current addresses and telephone numbers of any such victim or victims and an affidavit of the applicant that affirms that all required restitution has been completed;

f. if the sentence included any form of imprisonment, residence at a half-way house, other forms of correctional and/or treatment facilities, the applicant must provide the complete address, names and current addresses of any persons having information relating to the satisfactory completion of any such prison term, residence or treatment, and any related documents. In the event that medical, psychiatric, psychological, substance or alcohol abuse evaluation, treatment and rehabilitation was in any way part of the sentence or a term or condition of probation, the applicant will execute any releases which may be required for the board to obtain information. Such information obtained will be maintained by the board on a confidential basis;

g. all records or documents relating to any arrest or conviction of any felony or misdemeanor which has occurred at any time since the applicant's original felony conviction or which occurs at any time during which the application is pending or being investigated (this requirement is an ongoing responsibility of the applicant);

h. any documents, records, or information which the applicant wishes to present in support of his or her application which shows or evidences rehabilitation, positive social contributions, awards, commendations, social or lifestyle adjustments, positive treatment outcomes, employment or academic evaluations, volunteer work or any other area in which the applicant participated which would reflect on the applicant's good moral character and fitness to practice social work. (The applicant should provide the names, current addresses and telephone numbers of any references or persons having information in support of the application. While information in support of an application which occurred prior to the conviction may be submitted, the board will place greater emphasis on supporting documentation and information concerning events which have occurred since the felony conviction);

i. true copies of any licenses, certificates to practice or similar documents issued by any board or licensing authority of any other state or the state of Louisiana obtained by the applicant since the date of the felony conviction. The applicant should provide a complete listing of any college, graduate school, trade or business school and employers to whom he or she has made application since the date of the felony conviction. This request includes any applications which were denied for any reason, including the felony conviction.

3. BSWs and MSWs should be aware of the following:

a. any delay in providing the requested information will delay the board's action on the application;

b. providing any false or misleading information, being evasive, concealing or making material omissions, or failing to cooperate shall form a basis for the denial of the application;

c. in the event that the application is denied by the board, the applicant may request a compliance hearing provided the application for such a hearing is made in writing within 30 days after the applicant receives the notice of the denial of the application. The request shall contain the applicant's receipt of the notice of the denial of the application, and the applicant's grounds for opposition to the denial of the application. The applicant is further aware that at such a hearing the applicant may be represented by legal counsel and the applicant bears the burden to establish that he or she meets the criteria for licensure;

d. the intent of the above enumerated items is to obtain the information upon which the board will evaluate the application.

Q. Additional Requirements for International Applicants/Speakers of English as a Second Language

1. Any document required to be submitted to the board with an application for license, certification or registration shall be in the English language, or accompanied by a certified translation thereof into the English language.

2. As a condition of the board's consideration of the application of a graduate of a foreign college or university,

the applicant shall provide the board with a statement from the Council on Social Work Education that the applicant's degree is equivalent to an accredited social work degree in the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 34:1402 (July 2008), LR 37:

§311. Renewals and Cancellation

A. Renewal notices are mailed on or before July 1 of each year. All licenses, certificates and registrations lapse annually on August 31.

B. Licensed clinical social workers must list those licensed master social workers and certified social workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to June 30 of each year (see §317 for rules on acceptable continuing education). Applications for renewal may be subject to denial if continuing education requirements are not fulfilled.

D. ...

E. A lapsed license fee shall be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. The lapsed fee equals twice the amount of the renewal fee.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003), LR 34:247 (February 2008).

§313. Fees

A. The fees charged by the Louisiana State Board of Social Work Examiners shall be as follows.

Application Fee for LCSW	\$100
Application Fee for LMSW	75
Application Fee for RSW	50
Application fee for Retake of LCSW	50
Application fee for Retake of LMSW	50
Renewal Fee for LCSW	75
Renewal Fee for LMSW and CSW	50
Renewal Fee for RSW	25
Lapsed Renewal Fee for LCSW (postmarked after November 30)	150
Lapsed Renewal Fee for LMSW and CSW (postmarked after November 30)	100
Lapsed Renewal Fee for RSW (postmarked after November 30)	50
Fee for Returned Checks	25
Reissuance of Lost or Destroyed Certificate	25
Reissuance of Lost or Duplicate Identification Card	5
Fee for mailing lists per label plus postage and handling	\$0.05
Copy Fee for Documents:	\$0.25 per page plus postage and handling
Fax Transmissions:	\$5 first page \$1 each additional page
Written Verification of License, Certificate or Registration:	\$5

B. As authorized by R.S. 37:2716, the fee schedule in Subsection A of this Section may be modified from time to time as deemed necessary by the board. Modifications to the fee schedule in Subsection A of this Section by board action shall not result in an increase in any fee above the amounts specified in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003), LR 34:248 (February 2008), LR 37:

§317. Continuing Education Requirements

A.-F. ...

1. Continuing Education Waivers for Declared Emergencies. In response to a disaster or emergency declared by the appropriate authority or governor of the state, continuing education units required for renewal of a license may be waived by the board.

2. Continuing Education Extensions for Extenuating Circumstances. In response to extenuating circumstances, the time frame mandated to complete continuing education units required for renewal of a license, certification, or registration may be extended by the board.

G. - J.1. ...

K. Continuing Education Requirements for Licensed Master Social Worker and Certified Social Worker

K1. - M.1. ...

2. educational offerings sponsored by or offered by entities approved by the Association of Social Work Boards;

3. should the individual social worker make the determination that an education offering which is not pre-approved by one of the approval organizations has content applicable to social work practice, the *Guide for Assessment of Continuing Education* (§317.P) must be used. This document, as well as all the relevant course materials, and the certificate of completion should be maintained in the event you are audited;

4. distance learning (teleconferences, telecourses, home-study courses and internet courses) sponsored by entities listed in §317.M.1, or pre-approved by a LABSWE-authorized pre-approval organization cannot exceed a total of 10 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials;

5. continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour;

6. presentations of content applicable to social work practice at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1.5 times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that lasts one hour. You will receive 1.5 hours continuing education credit for this presentation.) Presentation and preparation time may only be counted once for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted once in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation;

7. attendance at staff development presentations with content applicable to social work practice (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms, etc.). Please be prepared to provide the presenter's name, credentials, date of presentation and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences;

8. attendance at professional social work meetings, Association of Social Work Boards (ASWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in §317.M.1. Please be prepared to provide the dates and nature of content or consultation covered;

9. formal study groups of three or more participants. Must submit name, address, telephone number and credentials of group members to the board office. Study groups should maintain records of topics, attendance, meeting times, and presenters for audit purposes;

10. contracted professional consultation which the credentialed social worker receives. Must provide the paid consultant's name, address, telephone number, credentials, and the dates and focus of the consultation;

11. preparation of substantial written material with content applicable to social work practice which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the publisher or funding agency. These activities may be counted for no more than five hours continuing education;

12. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently independent study must receive pre-approval from the board.

N. - P. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2385 (November 2003), LR 34:248 (February 2008), LR 37:

§319. Reciprocity and Endorsement

A. - C.5. ...

6. The applicant submits the completed application for endorsement along with the required documentation to demonstrate good moral character.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000), amended LR 34:249 (February 2008), LR 37:

Chapter 5. Minimum Supervision Requirements

§501. The LMSW Who Pursues the LCSW Credential, or Who Provides Services Which Constitute Psychotherapy Must Be Supervised

A. A LMSW must be a salaried employee of an agency, organization, or facility that delivers social work services or

a contractual employee of a governmental agency. The individual is considered an employee if:

1. - 3. ...

B. A LMSW will be considered as providing social work services on behalf of a federal, state, or local governmental agency on a contractual basis if:

1. there is written documentation of the contractual relationship between the LMSW and the governmental agency;

2. ...

3. the governmental agency provides the LMSW with either a Form 1099 or evidence of withholding of federal income taxes and FICA.

C. ...

D. LMSWs shall not:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 34:1402 (July 2008), LR 37:

§503. LMSWs Seeking the LCSW Credential

A. Supervision for the LCSW license can begin after the MSW obtains LMSW.

B. Supervision for the LCSW license is conducted by a board approved clinical supervisor (BACS). LMSWs may obtain a list of BACS from the board's website or office.

C. Effective August 15, 2007, LMSWs seeking the LCSW credential must complete a minimum of 5760 hours of postgraduate social work practice and at least 3840 hours of that postgraduate social work practice must be under the supervision of a board approved clinical supervisor (BACS).

D. LMSW postgraduate social work practice and postgraduate BACS supervised social work practice for LMSW seeking the LCSW credential, which practice occurred prior to August 15, 2007, will be calculated by the board based on the prior requirements of at least 36 accumulated months of full-time postgraduate social work practice and 24 accumulated months of BACS supervised practice. In order to qualify for the appropriate credits, the postgraduate practice and the postgraduate supervised practice shall be in conformity with board rules governing such practice at that time. Copies of those prior rules and forms relating to postgraduate practice and supervised postgraduate practice can be obtained from the board office or the board's web site.

E. Notwithstanding Subsection C of this Section, LMSWs seeking the LCSW credential who have completed the 36-month postgraduate practice requirement and the 24-month postgraduate BACS supervised practice requirement prior to August 15, 2007 and who provide documentation thereof in conformity with applicable board rules and forms will be eligible for the LCSW examination and license.

F. LMSWs whose postgraduate social work practice or BACS supervised postgraduate social work practice occurs both before August 15, 2007 and after August 15, 2007 will be credited by the board based on the application of Subsection D of this Section (monthly calculation) for the postgraduate practice occurring prior to August 15, 2007 and based on Subsection C of this Section (hourly calculation) for postgraduate practice occurring after August 15, 2007. In order for LMSWs to determine whether they have obtained

the total number of postgraduate credits necessary to qualify for LCSW examination and license, LMSWs will employ the conversion formula provided in Subsection G of this Section prior to the submission of their completed supervision documentation forms to the board.

G.1. - 2. ...

3. Example of calculations. LMSW prior to August 15, 2007 completed 24 months of postgraduate practice 13 of which qualified as BACS supervised. Two ratios of 24/36 and 13/24 are formed. The resulting percentages, (66.67 percent of the postgraduate practice requirement and 54.17 percent of the supervision requirement) are then multiplied times the total hourly requirement in each category. In the example, the GSW converts by multiplying 66.67 percent times 5,760 to obtain 3840 hours of postgraduate practice credit for social work performed prior to August 15, 2007. The LMSW determines that 1920 hours of postgraduate social work practice after August 15, 2007 are required by subtracting 3,840 by 5,760. Likewise the LMSW converts by multiplying 54.17 percent times 3,840 to obtain the 2080 hours of postgraduate BACS supervised practice credit performed prior to August 15, 2007. The LMSW determines that 1760 hours of postgraduate social work practice after August 15, 2007 are required by subtracting 2,080 from 3,840.

H. The requirement for supervision is at least 2 hours of face-to-face supervision with a BACS during every 80 hours increment of postgraduate social work practice. This hourly supervision requirement applies to each consecutive increment of 80 hours of social work practice. Postgraduate social work practice which exceeds 80 consecutive hours of practice without at least two hours of face-to-face BACS supervision will not be credited to the 3,840 hours of supervised practice.

I. - O.8. ...

P. To register her/his intent to initiate supervision, the LMSW must submit the completed registration of supervision form.

Q. - S. ...

T. When supervision is provided to a LMSW by a LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the plan of supervision, whether the fee for supervision is paid by the agency or the supervisee.

T.1. - U. ...

V. An evaluation of supervision form shall be submitted to the board office at the end of the supervisory period. Sometimes it is necessary for a supervisor to discontinue supervising a LMSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an evaluation of supervision form.

W. ...

X. If the LMSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

X.1. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:

§505. The LMSW Not Receiving BACS Supervision or the CSW Not Eligible for BACS Supervision

A. The LMSW who is not receiving BACS supervision or the CSW not eligible for BACS supervision, may deliver those clinical services which constitute psychotherapy only under the supervision of a LCSW. Supervision under these circumstances does not require that the supervising LCSW have the board approved clinical supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the LMSW or CSW must be supervised in accordance with the following rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the LMSW or CSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The LMSW or CSW may independently secure LCSW supervision.

D. - E. ...

F. Supervision for LMSWs or CSWs rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the LMSW or CSW is rendering psychotherapeutic services.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 34:249 (February 2008), LR 37:

Chapter 7. Impaired Professional Program Authority §703. Purpose

A. ...

B. A social worker who meets the requirements of R.S. 37:2706, 2707, 2708, or 2724 may enter the program subsequent to voluntary disclosure of impairment via an initial or renewal application for a credential. Entrance into the program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4), or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program may be allowed to maintain his/her social work credential while in compliance with the requirements of their program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 34:249 (February 2008), LR 37:

Chapter 9. Procedural Rules

§901. Authority

A. Consistent with the legislative purpose specified in R.S. 37:2701 through 2724, and to protect the safety and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, the following rules, standards, and procedures are established

under the board's rule making authority of R.S. 37:2705(C), 37:2717(C)(E) and R.S. 49:952.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2390 (November 2003), amended LR 37:

§903. Complaint Origination

A. The board is authorized to receive from any person a complaint or complaints against social workers licensed, certified, or registered under R.S. 2701 et seq., (hereinafter referred to as *social workers*), as well as complaints against any level of social work applicant. Throughout these rules, the term *license* or *licensed* includes the term *certification and registration* and also applies to any social workers who are certified or registered. The board is also authorized to initiate such complaint(s) when the board otherwise possesses or obtains information which satisfies the board that such a complaint is warranted.

B. ...

C. The respondent may be represented by an attorney at law duly admitted to practice in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2390 (November 2003), amended LR 37:

§905. Investigation Procedures

A. When the board receives a written complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or any other form of discipline specified in R.S. 37:2717(B), the board may refer the complaint, report or information to the board administrator and/or to the board's designated complaint investigation officer (hereinafter referred to as the CIO). The CIO may be an employee of the board or provide investigation services under contract with the board. The board will stipulate the protocol and manner of the investigator. The board's administrator and staff and/or the CIO shall conduct such investigation or inquiry as the board deems appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the involved social worker. To assist in the investigation, the board is authorized to issue, as necessary or upon request, such investigative subpoenas as may be required to obtain documents, the appearance of witnesses, or sworn statements or testimony.

B. Except for the notice required by §911.B and §937.C, all other notices, correspondence or written communication relating to complaints, investigations, notices of investigations, conferences, decisions, orders, etc., may be served on or delivered to the involved social worker, complainant(s), or witnesses by regular mail or, when deemed appropriate or necessary by the board or its administrator, by personal delivery (service) or other available means. Notices shall be delivered with the designation "personal and confidential" clearly marked on the outside of the envelope.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners,

LR 29:2391 (November 2003), amended LR 34:1405 (July 2008), LR 37:

§907. Disposition of Investigation

A. - C. ...

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in R.S. 37:2717, then the administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the board's administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in §909.B of these rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the board's administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The board's administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in R.S. 37:21.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 37:

§919. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §917 of these rules, provided that the board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003), amended LR 37:

§925. Designation of Hearing Panel, Disqualification and Replacement

A. - B. ...

C. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining board

members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in §943, may file with the board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned board member shall not participate in the action to disqualify and shall not vote on that issue. If the board hearing panel determines there is no merit to the request for disqualification, the board will proceed with the hearing before the designated panel. However, any doubt as to the merits of the request for disqualification should be resolved in favor of disqualification, and the board chairperson shall immediately appoint one of the remaining board members as the replacement to the hearing panel.

D. ...

E. At least one member of the hearing panel including the panel members of a compliance hearing specified under §943 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2394 (November 2003), amended LR 37:

§945. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of R.S. 37:2701-2724 may apply to the board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the rules of this board. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party within 30 days of the request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2398 (November 2003), amended LR 37:

Family Impact Statement

The proposed changes have no anticipated impact on the family.

Public Comments

Interested persons may submit written comments to Emily Efferson, Administrator, 18550 Highland Road, Suite B, Baton Rouge, LA 70809. Written comments will be accepted through 4:30 p.m. on June 30, 2011.

Emily Efferson
Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Social Work

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation savings to state or local governmental units through promulgation of the proposed rules changes. The estimated cost to the Louisiana State Board of Social Work Examiners (the board) paid to the State Register for publishing the Notice of Intent is \$1500. The estimated cost to upload the new rules to the website is \$50.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

By the authority of Act 880 of the 2010 Regular Legislative Session, the board has changed the title of Graduate Social Worker (GSW) to Licensed Masters Social Worker (LMSW) and Provisional GSW to Certified Social Worker (CSW). In addition, the board is making the following substantive rule changes:

LAC 46:XXV.303G and LAC 46:XXV.309P(3) are being repealed in order to eliminate confusion and clarify that a social worker may not operate without licensure and certification by the board.

LAC 46:XXV.305A & B, and LAC 46:XXV.309G are being amended to require licensure applicants to provide fingerprints in order for the board to run State and Federal criminal record checks as per legislative mandate. The board will not collect any additional revenue as a result of this legislative requirement. Instead, the applicants will pay \$45.25 to Louisiana State Police (LSP) directly through the board's application process. Of the \$45.25, the state criminal record check is \$26, and the federal record check costs \$19.25. LSP keeps \$2 of the \$19.25 paid for the FBI federal background check for the costs of processing. LSP will process the workload increase, stemming from the additional background checks and fingerprinting, with existing staff and resources. With an estimated 250 new applicants for licensure in FY 12, it is estimated that LSP will receive an additional \$7,000 ($[250 \times \$26] + [250 \times \$2] = \$7,000$) in revenue as a result of criminal background checks from this rule change (excludes FBI fees). This revenue is anticipated annually.

LAC 46:XXV.311A & C are being amended to clarify that licenses, certificates, and registrations lapse if their processing has not been completed by August 31st and also may be denied if the renewal applicant has not fulfilled all continuing education requirements.

The board is proposing adding language to LAC 46:XXV.313, which would provide the board authority to alter fees through board action rather than by a rule change as long as any fee charged does not exceed the maximum fee limit authorized by statute and outlined in the rule. The current fees reflect the maximum amounts outlined in section 313. With this rule change, the board will have the flexibility to reduce its fees. As a result of this new authority, the board will reduce its renewal fees for 3,679 Licensed Clinical Social Workers (LCSW) from \$75.00 to \$50.00 ($3,679 \times \$25 = \$91,975$), 2,268 LMSWs and CSWs from \$50.00 to \$35.00 ($2,268 \times \$15 = \$34,020$) and 1,162 Registered Social Workers (RSW) from \$25.00 to \$15.00 ($1,162 \times \$10 = \$11,620$). This means a total reduction of \$137,615 in self-generated revenue from fee reductions. Also, the board has waived the \$3 online renewal credit card processing fee (\$21,327 in lost revenue), and other miscellaneous revenue sources including the \$35 registration

fee for supervision, the \$35 fee for the board orientation workshop, the \$25 fee for the open book examination, the \$5 fee for duplicate identification cards, and the \$5 fee for license verifications resulting in an additional decrease of \$15,000 (estimated based on FY 10 collected revenues). All waived fees total \$36,327 in lost revenue (\$15,000 + \$21,327 = \$36,327). As such, the fee reductions and waivers will result in a total estimated loss of \$173,942 annually to the board's self-generated revenue in FY 12. The board estimates an additional 250 new applicants in FY 12 who will renew in FY 13. Therefore, there is an anticipated reduction of an additional \$5,585 in revenue in FY 13 due to the reduced renewal fees (\$4,835) and waived credit card processing fee (\$750) for a total self-generated revenues decrease of \$179,527 in FY 13. Estimates for lost revenue in out years is based on a prorated methodology determined by the percentage of each licensure renewal fee reduction category.

LAC 46:XXV.317 allows the board to waive continuing education units required for renewal in response to a disaster or emergency and to extend the required timeframe for renewal for extenuating circumstances. Also, the board will accept any educational courses sponsored by entities approved by the Association of Social Work Boards.

LAC 46:XXV.903 is being amended to inform social worker respondents that they may choose to be represented by an attorney in any complaint hearing before the board.

Under LAC 46:XXV.941, the board is repealing the 5-year limitation on board imposed restrictions for licensees who surrender their licenses rather than defend against an administrative complaint with the board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Social workers will benefit economically from paying lower renewal fees and having the fees waived for credit card processing, registration for supervision, board orientation workshops, open book examinations, duplicate identification cards, and license verifications. Applicants will now also have to pay \$45.25 for criminal background checks. The board estimates approximately 250 new applicants annually. In addition, should a social worker be a respondent to a complaint, they may choose to hire an attorney to defend them and will be subject to any attorney's fees involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Applicants for licensure who fail the newly imposed criminal record checks will not be eligible for licensure and unable to practice. Renewal applicants who fail to submit their renewal applications timely in order to finish processing by August 31st each year will have their licenses lapse and be unable to practice. Depending on the information provided to the board and the circumstances of each case, a respondent to a complaint investigation who surrenders his license may now be subject to permanent restrictions regarding reapplication and therefore be unable to practice in the state. In a state of emergency and under extenuating circumstances, continuing education requirements can be waived or delayed upon approval of the board, thereby allowing social workers to continue in practice.

Emily Efferson
Administrator
1105#066

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Clinical Laboratory Personnel, Licensure
and Certification (LAC 46:XLV.3509)

Notice is hereby given that the Louisiana State Board of Medical Examiners (board), pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its administrative rules governing licensure and certification of clinical laboratory personnel (CLP), LAC 46:XLV, Subpart 2, Chapter 35, Subchapter B, Section 3509 in order to delay implementation of certain amendments which would otherwise be effective on July 1, 2011. Specifically, in February 2011 the board amended its CLP rules so that effective after June 30, 2011, one certifying organization will be accepted for new applicants for CLP generalist and technician licensure [LR 37:596-597 (February 2011)]. The purpose of this rulemaking is to amend Subsections 3509.A.1 and A.2, and 3509.C.1 and C.2 to delay implementation of these amendments for an additional year, from June 30, 2011 to June 30, 2012. In the interim, the certifying organizations accepted under the board's current rules for CLP generalist and technician applicants for licensure will continue to be recognized by the board.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 35. Clinical Laboratory Personnel

Subchapter B. Licensure and Certification Requirements

§3509. Qualifications for Licensure and Certification

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification as developed and administered:

1. on or before June 30, 2012, by one of the following organizations or their successor organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Medical Technologists (AMT); or
- d. International Society of Clinical Laboratory Technology (ISCLT) provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health,

Education, and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist;

2. after June 30, 2012, by the ASCP.

B. - B.2.g. ...

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered:

1. on or before June 30, 2012, by one of the following organizations or their successor organizations:

a. American Society of Clinical Pathologists (ASCP);

b. National Certification Agency (NCA);

c. American Medical Technologists (AMT); or

d. International Society of Clinical Laboratory Technology (ISCLT).

2. after June 30, 2012, by the ASCP.

D. - F.2.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994), amended, LR 37:597 (February 2011), LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (1515 Poydras Street, Suite 2700, New Orleans, LA 70112), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., June 20, 2011. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Clinical Laboratory Personnel, Licensure and Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, the total of which are estimated to be \$274 during the current fiscal year, it is not anticipated that the proposed rule amendments will result in

any material costs to the Board of Medical Examiners (the Board) or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on the Board's revenue collections or that of any other state or local governmental unit anticipated from the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In February 2011, the Board amended its Clinical Laboratory Personnel (CLP) rules so that effective after June 30, 2011, the only certifying organization accepted by the Board would be the American Society of Clinical Pathology (ASCP) for new applicants for CLP generalist and technician licensure (LR, Vol. 37, No. 2, pp. 596-597). The Board has determined to delay implementation of the rule for one-year, and the rule will now be effective June 30, 2012. In the interim, the certifying organizations accepted under the Board's current rules for CLP generalist and technician applicants for licensure will continue to be recognized by the Board. The previous rule change had no anticipated impact on costs and/or economic benefits to directly affected persons beyond possible additional education or training for the small number of applicants who will seek CLP generalist or technician licensure on a basis other than ASCP certification. Because the costs associated with such education or training will vary based on an individual's current training and experience, and by virtue of the variety of avenues by which such certification may be sought, the Board is not in a position to estimate the proposed rules' effect in this respect. However, it is not anticipated that the delay will have any significant effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
1105#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Editor's Note: This Notice of Intent is being reprinted to correct a typographical error. The original Rule may be viewed in its entirety on pages 1252-1257 of the April 20, 2011 edition of the *Louisiana Register*.

Public Buildings, Schools and Other Institutions
(LAC 51:XVII.Chapters 1 and 3)

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to amend Part XVII (Public Buildings, Schools, and Other Institutions) of the Louisiana State Sanitary Code (LAC 51). Besides the need to generally update the existing rule, the major impetus behind this proposed Rule is to incorporate changes to the existing lighting requirements for schools (and other institutions with classrooms) such that the

proposed new lighting standards comport with the U.S. Energy Policy Act of 1992. This Act required states to establish minimum commercial building energy codes. This gave impetus to the creation and modification of ASHRAE 90.1/1999, 2001, 2004, ASHRAE 90.2, the Model Energy Code, etc. In Louisiana, a commercial building energy conservation code is adopted under R.S. 40:1730.41, *et seq.* This law essentially adopted the ANSI/ASHRAE/IESNA 90.1—2004 standard as the commercial building energy conservation code for Louisiana. This document was developed by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) along with the Illuminating Engineering Society of North America (IESNA) and the development process was sanctioned by the American National Standards Institute (ANSI). With the exception of state-owned facilities, the Office of the State Fire Marshal, Code Enforcement and Building Safety has statewide responsibility to enforce the commercial building energy code, including when doing plans reviews for nonstate-owned public buildings, schools and other institutions. The Facility Planning and Control Section of the Division of Administration has statewide responsibility to enforce it for state-owned facilities, including when doing plans reviews for state-owned public buildings, schools and other institutions. This commercial building energy conservation code enacted a limitation (based upon so many watts per square foot) for school lighting as a means to conserve energy to assist in meeting the national energy policy goals set out in the Act. The footcandle requirements for school and classroom lighting in the existing sanitary code make compliance with the commercial energy code difficult, if not impossible. Conflicts have arisen when office of public health sanitarians inspecting new schools have found that the sanitary code minimum footcandle requirements are not being met. This Rule intends to lower the footcandle requirements in schools and classrooms because of the commercial building energy policy code while attempting to still ensure that adequate lighting is provided for the students under the provisions of the Sanitary Code.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XVII. Public Buildings, Schools, and Other Institutions

Chapter 1. General Requirements for Public Buildings

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Institution or *Institutional Building*—a building or buildings housing an organization, foundation, or other entity dedicated to education, culture, or other public service [e.g., public or private schools (nursery schools, trade schools, colleges, or universities), hospitals, nursing homes, jails, and mortuaries].

Public Building—any structure that is owned, leased, or principally used by a government agency for public business, meetings, or other group gatherings, or other building to which the general public has reasonably free access [e.g., including, but not limited to, every public and

government building, school (kindergarten, nursery school, trade school, college, or university), office building, store, commercial building, enclosed shopping center, theater, lecture hall, auditorium, hotel, restaurant, boarding house, nursing home, hospital, airport building, bus depot, railroad depot, and other places where people congregate, etc.].

Readily Accessible—having direct access without the need of removing any panel, door or similar covering of the item described and without requiring the use of portable ladders, chairs, etc.

State Health Officer—see definition in Part I, Section 101.B of this Code and apply it in this Part.

Substantial Renovation—see definition in Part I, Section 101.B of this Code and apply it in this Part.

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:

§103. Lighting, Heating, and Ventilation Requirements for Public Buildings [Formerly §101]

A. Every public and government building in this state, including, but not limited to every school (kindergarten, nursery school, trade school, college or university), office building, store, commercial building, enclosed shopping center, theater, lecture hall, auditorium, hotel, restaurant, boarding house, nursing home, hospital, airport building, bus depot, railroad depot, and other places where people congregate, shall be adequately lighted, heated, and ventilated, in accordance with the requirements of this Chapter, and shall otherwise conform to all other requirements of this Part.

B. Every indoor area traversed by people, including halls, stairways, and toilet rooms, shall a minimum of 10 foot-candles of illumination measured at a level 3 feet above the floor.

C. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:

§105. Plans and Specifications [Formerly §103]

A. No person shall construct any new facilities for any state agency, or construct any new institutional buildings, or make additions or substantial renovations to such existing facilities until plans and specifications therefore have been submitted to, and approved in writing by, the state health officer. Institutions include, but are not limited to the following (whether public or private):

1. schools (nursery schools, trade schools, colleges, or universities);
2. hospitals;

3. nursing homes;
4. jails; and
5. mortuaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:

§107. Drinking Water Provisions
[Formerly §105]

A. Drinking water, processed in accordance with Part XII of this Code, shall be made available to all occupants of all public buildings.

B. Drinking fountains shall be provided in public buildings and institutions in the quantities shown in table 407 of the Louisiana State Plumbing Code (LSPC) as published October 2000. Said drinking fountains shall be constructed and installed in accordance with the requirements of 409.2 of the LSPC.

C. The use of receptacles for handling and storing drinking water other than bottled water approved by the state health officer is prohibited, except in emergencies, as approved by the state health officer.

D. Drinking Utensils. The use of a drinking cup in common is prohibited. Two types of drinking utensils are acceptable: Single-service and Multi-use. Single-service utensils are preferable, but Multi-use utensils are acceptable so long as they are washed, rinsed and sanitized between uses in accordance with Part XXIII of this Code. Single-service utensils shall meet the requirements of §§2115, 2503, and 2517 of Part XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:

§109. Plumbing and Sewage Disposal Requirements
[Formerly §107]

A. All public buildings shall be provided with sewage disposal facilities and plumbing in compliance with the provisions of Parts XIII and XIV of this Code.

B. Toilet rooms shall be provided in all public buildings for use by the general public. Facilities for hand-washing and cleaning purposes shall be located in these places and shall be provided with soap, mechanical hand-drying devices or disposable paper towels, and toilet paper. In addition, said toilet rooms shall meet the requirements of the following Sections, and those of Part XIV of this Code. Showers, if provided, shall meet the requirements of Part XIV of this Code.

C. The site of all public buildings shall be well drained, such that no water will collect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:52(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), repromulgated LR 29:1099 (July 2003), amended LR 37:

§111. Housekeeping Requirements
[Formerly §109]

A. Public buildings shall be kept clean. Sweeping, vacuuming and mopping should be done when the building is free of occupants, if possible. Sweeping shall be done in such a manner as to minimize the spread of dust. Mops shall

be cleaned after use and before storage in a well ventilated area. Vacuum cleaners should be equipped with a High Efficiency Particulate Air (HEPA) filter that is maintained per manufacturer's specifications.

B. No absorbent floor covering shall be used in assembly halls, dining rooms, halls and stairways. Any carpeting installed in such areas shall be made of non-absorbent fibers.

C. Garbage and trash shall not be allowed to accumulate anywhere on the premises except in containers designed and maintained in accordance with Part XXVII of this Code. Garbage and other discarded putrid materials shall be stored in impervious cans with tight fitting covers. Oily rags and other materials subject to spontaneous combustion shall be stored in tightly covered metal containers. Other trash shall be stored in non-combustible containers.

D. Garbage cans shall be washed weekly or more often if residues accumulate or odors become offensive. Said washing shall be done on a concrete or other impervious surface sloping toward a drain so that none of the wash water escapes the controlled area. Any liquid wastes from compacting garbage or trash shall be disposed of as sewage. Said drain shall be equipped with a strainer and shall be connected to a sanitary sewage treatment system which meets the requirements of Part XIII of this Code. If this area is located outdoors, methods shall be used to prevent rainwater and surface water runoff from entering the sewerage system, such as elevating the cleaning pad/compacting area, curbing the cleaning pad/compacting area, enclosing and/or covering the cleaning pad/compacting area such that the surrounding parking lot, street, or ground area, etc., is not allowed to drain into the sewerage system. If the discharge of cleaning or compacting contains fats, oils, or grease, such drain shall first discharge into a grease trap or oil interceptor (designed in accord with Part XIV of this Code), as appropriate, before connecting to the sewerage system.

E. Spitting in or about any public building is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), repromulgated LR 29:1099 (July 2003), LR 37:

Chapter 3. Special Sanitary Requirements for Schools and Other Institutions

§301. Toilet Rooms in Schools and Other Institutions
[formerly paragraph 17:021]

A. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Part XIV of this Code for the classroom population of that floor.

B. The state health officer may require additional or alternate facilities as necessary to serve persons with special needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:

§303. School Lunchrooms and Concession Stands
[formerly paragraph 17:022]

A. All school lunch rooms and school concession stands shall comply with the general sanitary requirements for public eating places as specified in Part XXIII of this Code.

B. [Formerly paragraph 17:023] Single-service utensils, made of paper or approved plastic, shall be used in school lunchrooms whenever equipment is deemed inadequate by the state health officer to provide proper sanitization for multiple-use utensils.

C. [Formerly paragraph 17:024] In all schools and in other special types of institutions with classrooms, hand-washing facilities (for student and staff use before eating) shall be readily accessible in a common area and shall not be further than 50 feet from the lunch room, dining area or

cafeteria. Said facility shall be provided with hot and cold running water delivered via a mixing faucet(s) or a mixing valve at a water temperature not to exceed 120°F, soap, and disposable paper towels or mechanical hand-drying devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:

§305. Space and Lighting Requirements for Classrooms
[formerly paragraph 17:025]

A. ...

B. [Formerly paragraph 17:026] In all schools, and in other special types of institutions with classrooms, artificial lighting shall be provided in all classrooms and other rooms with the minimum level of illumination as listed in Table 305.B below.

Table 305.B—School/Classroom Lighting						
Room Type Classification	Direct Lighting Footcandle Levels ⁽¹⁾			Indirect Footcandle Levels ⁽²⁾		
	Maximum	Average	Minimum	Maximum	Average	Minimum
Administrative Areas						
Offices/Receptionist	75	50	25	60	40	20
Storage Rooms	38	25	13	38	25	13
Restrooms	38	25	13	38	25	13
Conference/Resource Rooms	75	50	25	60	40	20
Healthcare Area	75	50	25	60	40	20
Teacher Prep/Work Area	75	50	25	60	40	20
Classrooms						
General Classrooms	75	50	25	60	40	20
Visual Arts Rooms	75	50	25	60	40	20
Modular Technology Labs	75	50	25	60	40	20
Computer Aided/Drafting Labs	45	30	15	45	30	15
Industrial Arts Rooms	90	60	30	90	60	30
Computer Labs	60	40	20	60	40	20
Graphics Labs	75	50	25	60	40	20
Life Skills Labs	75	50	25	75	50	25
Science Rooms/Labs	75	50	25	75	50	25
Laundry Rooms	38	25	13	38	25	13
Music Rooms	75	50	25	60	40	20
Large Group Instruction Rooms	75	50	25	60	40	20
Media Center						
Active Areas	75	50	25	60	40	20
Inactive Areas	60	40	20	60	40	20
Student Dining/Auditoriums						
Assembly	30	20	10	N/A		
Stage/Work Lights	30	20	10	N/A		
Makeup/Dressing Rooms	75	50	25	75	50	25
Theatrical Control Room	45	30	15	45	30	15
Kitchen	60	40	20	N/A		
Dining Areas	60	40	20	60	40	20
Athletic Areas						
Gymnasium-Elementary School	75	50	25	N/A		
Gymnasium-Middle School	75	50	25	N/A		
Gymnasium-High School	90	60	30	N/A		
Multi-use Physical Education Rooms	75	50	25	N/A		
Locker Rooms	38	25	13	38	25	13
Circulation						
Hallways	30	20	10	30	20	10
Stairwells	30	20	10	30	20	10
Maintenance Areas						
Custodial Closets	45	30	15	45	30	15
Mechanical Rooms	45	30	15	45	30	15

Footnotes to Table 305.B

(1) Direct lighting refers to light that is being directed in a downward direction towards the surface being illuminated.

(2) Indirect lighting refers to light that is directed at least partially in an upward direction or is reflected in some manner towards the surface being illuminated.

1. General Notes on Lighting System Design and Enforcement of Table 305.B

a. For design in new and significantly renovated schools, the designer shall utilize the Illuminating Engineering Society of North America (IESNA) Lighting Handbook; however, the standards contained in Table 305B of this Part shall control if there is a conflict.

b. Enforcement of the lighting standards is based upon the average illumination level in each room or area.

c. For instructional spaces utilizing digital “smart boards” or outfitted for audio-visual presentations, the designer should consider the installation of lighting controls readily accessible to the instructor having capability to reduce the illumination on the screen to seven footcandles or less, while maintaining an average of 20 footcandles within the remaining functional areas of the room or area.

d. For instructional spaces utilizing dry-erase whiteboards, the designer should consider the installation of separately controlled, dedicated luminaries mounted parallel to the whiteboard, providing 30 footcandles average on the vertical plane of the whiteboard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:

§307. Outdoor Play Areas

A. For elementary schools and other schools with children under 12 years of age, all pieces of playground equipment with play surfaces four feet or higher from the ground shall have an appropriate energy absorptive surface such as wood chips at a depth of 8-10 inches or rubber mats, manufactured for such use meeting A.S.T.M. Standard F355-10a, under the fall zone of the equipment. A swing with the seat four feet above the ground when at a 90 degree arc shall meet this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:

Family Impact Statement

1. The effect on the stability of the family. There will be no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. There will be no effect on the functioning of the family.

4. The effect on the family earnings and family budget. There will be no effect on family earnings or budget.

5. The effect on the behavior and personal responsibility of children. There will be no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. There will be no effect on the ability of the family to perform the function as contained in the proposed rule. Local governmental units (e.g., school boards) may have to expend additional funds in order to comply with the proposed regulation relative to absorbent surfaces under certain playground equipment.

Public Comments

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, May 27, 2011 at COB, 4:30 p.m., and should be addressed to Albert J. Mancuso, Jr., Building and Premises, Vector Control and Infectious Wastes Programs, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin # 10, Box #17, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street - Room 150, Baton Rouge, LA 70802.

Public Hearing

DHH-OPH will conduct a public hearing at 10:00 a.m. on Wednesday, May 25, 2011, in Room 372 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth/ North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Buildings, Schools
and Other Institutions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XVII (Public Buildings, Schools and Other Institutions) of the State Sanitary Code (LAC 51) as follows: (1) Update and incorporate changes to the existing lighting requirements for schools and other institutions with classrooms to comply with the U.S. Energy Policy Act of 1992 that required states to establish minimum commercial building energy codes; (2) Revise, re-arrange and re-number sections of Part XVII of the sanitary code; and (3) Add a new section on Outdoor Play Areas.

According to the Office of Public Health, the new lighting requirements under the school code are more economical than the existing lighting requirements because they require less watts per square foot. Therefore, the department anticipates that local governmental units (e.g., school boards) may experience a slight savings due to lower electrical bills.

However, school boards installing new playground equipment, substantially renovating existing playgrounds, or purchasing existing schools/facilities that have existing playground equipment may experience increased costs to comply with the proposed rule. The proposed rule requires all outdoor play areas to have absorbent surfaces under certain playground equipment.

The remaining proposed changes are technical in nature and are not expected to have a fiscal impact on state or local governmental units.

The proposed changes will result in an estimated cost of \$697 to publish the notice of intent and the final rule in the Louisiana Register. This is a one-time cost that is included in the agency’s budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certain nongovernmental groups (e.g., owners of private schools and parochial school boards) may see an economic benefit from the promulgation of these rules. The new lighting requirements will result in the design of lighting systems that are more economical to operate (i.e., less watts per square foot = less energy consumption = lower electrical bills).

Owners of private schools and parochial school boards installing new playground equipment, substantially renovating existing playgrounds, or purchasing existing schools/facilities that have existing playground equipment may experience an increased cost to comply with the proposed rule. The proposed rule requires all outdoor play areas to have absorbent surfaces under certain playground equipment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated as a result of promulgation of this regulation

Clayton Williams
Assistant Secretary
1105#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Public Defender Board**

**Trial Court Performance Standards for Attorneys
Representing Children in Delinquency Proceedings
(LAC 22:XV.Chapters 13 and 15)**

Editor's Note: This Notice of Intent was published in the March 20, 2011 *Louisiana Register* on pages 984-1000. This document is being republished to correct a submission error.

The Public Defender Board, a state agency within the Office of the Governor, proposes to adopt LAC 22:XV.Chapter 13 and LAC 22:XV.Chapter 15, as authorized by R.S. 15:148. These proposed Rules are promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 307 of the 2007 Regular Session of the Louisiana Legislature directed the Public Defender Board to adopt rules creating mandatory: 1) statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state; and 2) qualification standards for public defenders that ensure that public defender services are provided by competent counsel. Said standards are to ensure that public defenders are qualified to handle specific case types, taking into consideration the level of education and experience that is necessary to competently handle certain cases and case types, including representation of children in delinquency cases. In compliance with the directives of Act 307, the Public Defender Board proposes to adopt these standards for trial court performance for attorneys representing children in delinquency cases.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XV. Public Defender Board

**Chapter 13. Trial Court Performance Standards for
Attorneys Representing Children in
Delinquency—Detention through
Adjudication**

§1301. Purpose

A. The standards for attorneys representing children in delinquency proceedings are intended to serve several purposes. First and foremost, the standards are intended to encourage district public defenders, assistant public defenders and appointed counsel to perform to a high standard of representation and to promote professionalism in the representation of children in delinquency proceedings.

B. The standards are also intended to alert defense counsel to courses of action that may be necessary, advisable, or appropriate, and thereby to assist attorneys in deciding upon the particular actions to be taken in each case to ensure that the client receives the best representation possible. The standards are further intended to provide a measure by which the performance of district public defenders, assistant public defenders and appointed counsel may be evaluated, including guidelines for proper documentation of files to demonstrate adherence to the standards, and to assist in training and supervising attorneys.

C. The language of these standards is general, implying flexibility of action that is appropriate to the situation. In those instances where a particular action is absolutely essential to providing quality representation, the standards use the word "shall." In those instances where a particular action is usually necessary to providing quality representation, the standards use the word "should." Even where the standards use the word "shall," in certain situations the lawyer's best informed professional judgment and discretion may indicate otherwise.

D. These standards are not criteria for the judicial evaluation of alleged misconduct of defense counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1303. Obligations of Defense Counsel

A. The primary and most fundamental obligation of the attorney representing a child in a delinquency case is to provide zealous and effective representation for his or her client at all stages of the process. The defense attorney's duty and responsibility is to promote and protect the expressed interests of the child. Attorneys also have an obligation to uphold the ethical standards of the Louisiana Rules of Professional Conduct, to act in accordance with the Louisiana Rules of the Court, and to properly document case files to reflect adherence to these standards.

B. The attorney who provides legal services for a juvenile client owes the same duties of undivided loyalty, confidentiality and zealous representation to the child client as is due to an adult client. The attorney's personal opinion of the child's guilt is not relevant to the defense of the case.

C. The attorney should communicate with the child in a manner that will be effective, considering the child's

maturity, intellectual ability, language, educational level, special education needs, cultural background, gender, and physical, mental and emotional health. If appropriate, the attorney should file a motion to have a foreign language or sign language interpreter appointed by the court and present at the initial interview and at all stages of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1305. Child's Expressed Preferences

A. The attorney should represent the child's expressed preferences and follow the juvenile client's direction throughout the course of litigation. In addition, the attorney has a responsibility to counsel the child and advise the client as to potential outcomes of various courses of action. The attorney should refrain from the waiving of substantial rights or the substitution of his or her own view or the parents' wishes for the position of the juvenile client. The use of the word *parent* hereafter refers to the parent, guardian, custodial adult or person assuming legal responsibility for the juvenile.

B. Considerations of personal and professional advantage or convenience should not influence counsel's advice or performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1307. Scope of Representation

A. Certain decisions relating to the conduct of the case are ultimately for the child and other decisions are ultimately for the attorney. The child, after full consultation with counsel, is ordinarily responsible for determining:

1. the plea to be entered at adjudication;
2. whether to accept a plea agreement;
3. whether to participate in a diversionary program;
4. whether to testify on his or her own behalf; and
5. whether to appeal.

B. The attorney should explain that final decisions concerning trial strategy, after full consultation with the child and after investigation of the applicable facts and law, are ultimately to be made by the attorney. The client should be made aware that the attorney is primarily responsible for deciding what motions to file, which witnesses to call, whether and how to conduct cross-examination, and what other evidence to present. Implicit in the exercise of the attorney's decision-making role in this regard is consideration of the child's input and full disclosure by the attorney to the client of the factors considered by the attorney in making the decisions.

C. If a disagreement on significant matters of tactics or strategy arises between the lawyer and the child, the lawyer should make a record of the circumstances, his or her advice and reasons, and the conclusion reached. This record should be made in a manner that protects the confidentiality of the attorney-client relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1309. Basic Competency in Juvenile Proceedings

A. Before agreeing to defend a juvenile client, an attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge and experience to offer quality representation to the child. Before an attorney defends a juvenile client, the attorney should observe juvenile court, including every stage of a delinquency proceeding, and have a working knowledge of juvenile law and practice.

B. Prior to representing a juvenile client, at a minimum, the attorney should receive training or be knowledgeable in the following areas:

1. relevant federal and state statutes, court decisions and the Louisiana court rules, including but not limited to:

a. Louisiana Children's Code and Code of Criminal Procedure;

b. Louisiana statutory chapters defining criminal offenses;

c. Louisiana Rules of Evidence;

d. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.;

e. Family Education Rights Privacy Act (FERPA), 20 U.S.C. §1232g;

f. Health Insurance Portability and Accountability Act of 1996 (HIPPA), P.L., 104-192 § 264, 42 U.S.C. § 1320d-2 (in relevant part);

g. Louisiana Administrative Code, Title 28, Part XLIII (*Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*) and Part CI (*Bulletin 1508—Pupil Appraisal Handbook*);

h. state laws concerning privilege and confidentiality, public benefits, education and disabilities; and

i. state laws and rules of professional responsibility or other relevant ethics standards.

2. overview of the court process and key personnel in the delinquency process, including the practices of the specific judge before whom a case is pending;

3. placement options for detention and disposition;

4. trial and appellate advocacy;

5. ethical obligations for juvenile representation including these guidelines for representation and the special role played in juvenile courts; and

6. child development, including the needs and abilities of juveniles.

C. An attorney representing juveniles shall annually complete six hours of training relevant to the representation of juveniles. Additional training may include, but is not limited to:

1. adolescent mental health diagnoses and treatment, including the use of psychotropic medications;

2. how to read a psychological or psychiatric evaluation and how to use these in motions, including but not limited to those involving issues of consent and competency relating to Miranda warnings, searches and waivers;

3. normal childhood development (including brain development), developmental delays and mental retardation;

4. information on the multidisciplinary input required in child-related cases, including information on local experts who can provide consultation and testimony;

5. information on educational rights, including special educational rights and services and how to access and interpret school records and how to use them in motions, including but not limited to those related to consent and competency issues;

6. school suspension and expulsion procedures;

7. skills for communicating with children;

8. information gathering and investigative techniques;

9. use and application of the current assessment tool(s) used in the applicable jurisdiction and possible challenges that can be used to protect juvenile clients;

10. immigration issues regarding children;

11. gang involvement and activity;

12. factors leading children to delinquent behavior, signs of abuse and/or neglect, and issues pertaining to status offenses; and

13. information on religious background and racial and ethnic heritage, and sensitivity to issues of cultural and socio-economic diversity, sexual orientation, and gender identity.

D. Individual lawyers who are new to juvenile representation should take the opportunity to practice under the guidance of a senior lawyer mentor. Correspondingly, experienced attorneys are encouraged to provide mentoring to new attorneys, assist new attorneys in preparing cases, debrief following court hearings, and answer questions as they arise.

E. If personal matters make it impossible for the defense counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. If it later appears that counsel is unable to offer effective representation in the case, counsel should move to withdraw.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1311. Basic Obligations

A. The attorney should obtain copies of all pleadings and relevant notices.

B. The attorney should participate in all negotiations, discovery, pre-adjudication conferences, and hearings.

C. The attorney should confer with the juvenile within 48 hours of being appointed and prior to every court appearance to counsel the child concerning the subject matter of the litigation, the client's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.

D. Lawyers should promptly inform the child of his or her rights and pursue any investigatory or procedural steps necessary to protect the child's interests throughout the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1313. Conflicts of Interest

A. The attorney shall be alert to all potential and actual conflicts of interest that would impair his or her ability to represent a juvenile client. Loyalty and independent judgment are essential elements in the lawyer's relationship to a juvenile client. Conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. Each

potential conflict shall be evaluated with the particular facts and circumstances of the case and the juvenile client in mind. Where appropriate, attorneys may be obligated to contact the Office of Disciplinary Counsel to seek an advisory opinion on any potential conflicts.

B. Joint representation of co-defendants is not a per se violation of the constitutional guarantee of effective assistance of counsel. However, if the attorney must forbear from doing something on behalf of a juvenile client because of responsibilities or obligations to another client, there is a conflict. Similarly, if by doing something for one client, another client is harmed, there is a conflict.

C. The attorney's obligation is to the juvenile client. An attorney should not permit a parent or custodian to direct the representation. The attorney should not share information unless disclosure of such information has been approved by the child. With the child's permission, the attorney should maintain rapport with the child's parent or guardian, but should not allow that rapport to interfere with the attorney's duties to the child or the expressed interests of the child. Where there are conflicts of interests or opinions between the client and the client's parent or custodian, the attorney need not discuss the case with parents and shall not represent the views of a parent that are contrary to the client's wishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1315. Client Communications

A. The attorney shall keep the child informed of the developments in the case and the progress of preparing the defense and should promptly comply with all reasonable requests for information.

B. Where the attorney is unable to communicate with the child or his or her guardian because of language differences, the attorney shall take whatever steps are necessary to ensure that he or she is able to communicate with the client and that the client is able to communicate his or her understanding of the proceedings. Such steps could include obtaining funds for an interpreter to assist with pre-adjudication preparation, interviews, and investigation, as well as in-court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1317. Client Confidentiality

A. Juvenile defense counsel is bound by attorney-client confidentiality and privilege. The duty of confidentiality that the attorney owes the child is coextensive with the duty of confidentiality that attorneys owe their adult clients.

B. The attorney should seek from the outset to establish a relationship of trust and confidence with the child. The attorney should explain that full disclosure to counsel of all facts known to the child is necessary for effective representation and, at the same time, explain that the attorney's obligation of confidentiality makes privileged the client's disclosures relating to the case.

C. There is no exception to attorney-client confidentiality in juvenile cases for parents or guardians. Juvenile defense counsel has an affirmative obligation to safeguard a child's information or secrets from parents or guardians. Absent the child's informed consent, the

attorney's interviews with the client shall take place outside the presence of the parents or guardians. Parents or guardians do not have any right to inspect juvenile defense counsel's file, notes, discovery, or any other case-related documents without the client's express consent. While it may often be a helpful or even necessary strategy to enlist the parents or guardians as allies in the case, juvenile defense counsel's primary obligation is to keep the child's secrets. Information relating to the representation of the child includes all information relating to the representation, whatever its source. Even if revealing the information might allow the client to receive sorely-needed services, defense counsel is bound to protect the child's confidences, unless the client gives the attorney explicit permission to reveal the information to get the particular services or disclosure is impliedly authorized to carry out the client's case objectives.

D. In accordance with Louisiana Rule of Professional Conduct 1.6(b), a lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

1. to prevent reasonably certain death or substantial bodily harm;
2. to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
3. to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
4. to secure legal advice about the lawyer's compliance with the rules of professional conduct;
5. to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or
6. to comply with other law or a court order.

E. To observe the attorney's ethical duty to safeguard the child's confidentiality, attorney-client interviews shall take place in a private environment. This limitation requires that, at the courthouse, juvenile defense counsel should arrange for access to private interview rooms, instead of discussing case specifics with the child in the hallways; in detention facilities, juvenile defense counsel should have means to talk with the child out of the earshot of other inmates and guards; and in the courtroom, juvenile defense counsel should ask for a private space in which to consult with the child and speak with the child out of range of any microphones or recording devices.

F. An attorney shall exercise discretion in revealing or discussing the contents of psychiatric, psychological, medical and social reports, tests or evaluations bearing on the juvenile client's history or condition. In general, the lawyer should not disclose data or conclusions contained in such reports to the extent that, in the lawyer's judgment based on knowledge of the child and the child's family, the revelation would be likely to affect adversely the client's well-being or relationships within the family and disclosure

is not necessary to protect the client's interests in the proceeding.

G. An attorney should ensure that communications with a client in an institution, including a detention center, are confidential. One way to ensure confidentiality is to stamp all mail as legal and confidential.

H. In cases where delinquency proceedings are public, to protect the confidential and sometimes embarrassing information involved, the attorney, in consultation with the child, should move to close the proceedings or request the case to be called last on the docket when the courtroom is empty.

I. The media may report on certain delinquency cases. If a decision is made to speak to the media, the attorney should be cautious due to confidentiality, other rules of professional conduct, the potential for inaccurate reporting and strategic considerations. The attorney representing a child before the juvenile court should avoid personal publicity connected with the case, both during adjudication and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1319. Case File

A. The attorney has the obligation to ensure that the case file is properly documented to demonstrate adherence to these standards, such as, where relevant, documentation of intake and contact information, client and witness interviews, critical deadlines, motions, and any other relevant information regarding the case. The case file should also contain, where relevant, copies of all pleadings, orders, releases (school, medical, mental health, or other types), discovery, and correspondence associated with the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1321. Continuity of Representation

A. The attorney initially appointed should continue his or her representation through all stages of the proceedings. Unless otherwise ordered by the court, the attorney of record should continue to represent the child from the point of detention through disposition, post-disposition review hearings, and any other related proceedings, until the case is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1323. Stand-In Counsel

A. Any attorney appointed to stand in for another at any delinquency proceeding shall:

1. represent the child zealously as if the child is his or her own client;
2. ensure that the child knows how to contact stand-in counsel in case the child does not hear from the attorney of record;
3. immediately communicate with the attorney of record regarding upcoming dates/hearings, how to contact the child, placement of the child, nature of charges, and other timely issues that the attorney of record may need to know or address; and

4. immediately or within a reasonable time thereafter provide to the child's attorney of record all notes, documents, and any discovery received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1325. Caseloads

A. The attorney should not have such a large number of cases that he or she is unable to comply with these guidelines and the rules of professional conduct. Before agreeing to act as the attorney or accepting appointment by a court, the attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge, and experience to offer quality legal services in a particular matter. If, after accepting an appointment, it later appears that the attorney is unable to offer effective representation, the attorney should consider appropriate case law and ethical standards in deciding whether to move to withdraw or take other appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1327. Social Work and Probation Personnel

A. Attorneys should cooperate with social workers and probation personnel and should instruct the client to do so, except to the extent such cooperation is or will likely become inconsistent with protection of the client's legitimate interests in the proceeding or of any other rights of the client under the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1329. Detention

A. For purposes of appointment of counsel, children are presumed to be indigent. The attorney shall meet with a detained child within 48 hours of notice of appointment or before the continued custody hearing, whichever is earlier, and shall take other prompt action necessary to provide quality representation, including:

1. personally reviewing the well-being of the child and the conditions of the facility, and ascertaining the need for any medical or mental health treatment;

2. ascertaining whether the child was arrested pursuant to a warrant or a timely determination of probable cause by a judicial officer;

3. making a motion for the release of the child where no determination of probable cause has been made by a judicial officer within 48 hours of arrest; and

4. invoking the protections of appropriate constitutional provisions, federal and state laws, statutory provisions, and court rules on behalf of the child, and revoking any waivers of these protections purportedly given by the child, as soon as practicable via a notice of appearance or other pleading filed with the state and court.

B. Where the child is detained, the attorney shall:

1. be familiar with the legal criteria for determining pre-adjudication release and conditions of release, and the procedures that will be followed in setting those conditions, including but not limited to the use and accuracy of any risk assessment instruments;

2. be familiar with the different types of pre-adjudication release conditions the court may set and whether private or public agencies are available to act as a custodian for the child's release; and

3. be familiar with any procedures available for reviewing the judge's setting of bail.

C. The attorney shall attempt to secure the pre-adjudication release of the child under the conditions most favorable and acceptable to the client unless contrary to the expressed wishes of the child.

D. If the child is detained, the attorney should try to ensure, prior to any initial court hearing, that the child does not appear before the judge in inappropriate clothing, shackles or handcuffs.

E. The attorney should determine whether a parent or other adult is able and willing to assume custody of the juvenile client. Every effort should be made to locate and contact such a responsible adult if none is present at the continued custody hearing.

F. The attorney should arrange to have witnesses to support release. This may include a minister or spiritual advisor, teacher, relative, other mentor or other persons who are willing to provide guidance, supervision and positive activities for the youth during release.

G. If the juvenile is released, the attorney should fully explain the conditions of release to the child and advise him or her of the potential consequences of a violation of those conditions. If special conditions of release have been imposed (e.g., random drug screening) or other orders restricting the client's conduct have been entered (e.g., a no contact order), the client should be advised of the legal consequences of failure to comply with such conditions.

H. The attorney should know the detention facilities, community placements and other services available for placement.

I. Where the child is detained and unable to obtain pre-adjudication release, the attorney should be aware of any special medical, mental health, education and security needs of the child and, in consultation with the child, request that the appropriate officials, including the court, take steps to meet those special needs.

J. Following the continued custody hearing, the attorney should continue to advocate for release or expeditious placement of the child. If the child is not released, he or she should be advised of the right to have the placement decision reviewed or appealed.

K. Whenever the child is held in some form of detention, the attorney should visit the child no less often than once a month and personally review his or her well-being, the conditions of the facility, and the opportunities to obtain release.

L. Whenever the child is held in some form of detention, the attorney should be prepared for an expedited adjudicatory hearing.

M. Where the child is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.

N. If the court sets conditions of release which require the posting of monetary bond or the posting of real property as collateral for release, counsel should make sure the child understands the available options and the procedures that

must be followed in posting such assets. Where appropriate, counsel should advise the child and others acting in his or her behalf how to properly post such assets.

O. The lawyer should not personally guarantee the attendance or behavior of the child or any other person, whether as surety on a bail bond or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1331. Initial Interview with Child

A. The attorney should conduct a client interview as soon as practicable in order to obtain the information necessary to provide quality representation at the early stages of the case and to provide the child with information concerning the representation and the case proceedings. Establishing and maintaining a relationship with the child is the foundation of quality representation. Irrespective of the child's age, the attorney should consult with the child well before each court hearing. The attorney shall explain to the client how to contact the attorney and should promptly comply with child's requests for contact and assistance.

B. A meeting or conversation conducted in a hallway or holding cell at the courthouse is not a substitute for a thorough interview conducted in private and may waive confidentiality.

C. Prior to conducting the initial interview, the attorney should, where possible:

1. be familiar with the elements of the offense(s) and the potential punishment(s), where the charges against the client are already known;

2. obtain copies of any relevant documents that are available, including copies of any charging documents, recommendations and reports concerning pre-adjudication release, and law enforcement reports that might be available;

3. request mental health, juvenile assessment center, detention center or educational records, including any screenings or assessments, that may help in the initial interview with the client;

D. The purposes of the initial interview are to provide the child with information concerning the case and to acquire information from the child concerning the facts of the case.

1. To provide information to the client, the attorney should specifically:

- a. explain the nature of the attorney-client relationship to the child, including the requirements of confidentiality;

- b. explain the attorney-client privilege and instruct the child not to talk to anyone about the facts of the case without first consulting with the attorney;

- c. ensure the child understands that he or she has the right to speak with his or her attorney;

- d. explain the nature of the allegations, what the government must prove, and the likely and maximum potential consequences;

- e. explain a general procedural overview of the progression of the case;

- f. explain the role of each player in the system;

- g. explain the consequences of non-compliance with court orders;

- h. explain how and when to contact the attorney;

- i. provide the names of any other persons who may be contacting the child on behalf of the attorney;

- j. obtain a signed release authorizing the attorney and/or his or her agent to obtain official records related to the client, including medical and mental health records, school records, employment records, etc.;

- k. discuss arrangements to address the child's most critical needs (e.g., medical or mental health attention, request for separation during detention, or contact with family or employers); and

1. assess whether the child is competent to proceed or has a disability that would impact a possible defense or mitigation.

2. For a child who is detained, the attorney should also:

- a. explain the procedures that will be followed in setting the conditions of pre-adjudication release;

- b. explain the type of information that will be requested in any interview that may be conducted by a pre-adjudication release agency, explain that the child should not make statements concerning the offense, and explain that the right to not testify against oneself extends to all situations, including mental health evaluations; and

- c. warn the child of the dangers with regard to the search of client's cell and personal belongings while in custody and the fact that telephone calls, mail, and visitations may be monitored by detention officials.

3. The attorney or a representative of the attorney should collect information from the child including, but not limited to:

- a. the facts surrounding the charges leading to the child's detention, to the extent the child knows and is willing to discuss these facts;

- b. the child's version of the arrest, with or without a warrant; whether the child was searched and if anything was seized, with or without warrant or consent; whether the child was interrogated and if so, whether a statement was given; the child's physical and mental status at the time any statement was given; whether any samples were provided, such as blood, tissue, hair, DNA, handwriting, etc., and whether any scientific tests were performed on the child's body or bodily fluids;

- c. the existence of any tangible evidence in the possession of the state (when appropriate, the attorney shall take steps to ensure that this evidence is preserved);

- d. the names and custodial status of all co-defendants and the names of the attorneys for the co-defendants (if counsel has been appointed or retained);

- e. the names and locating information of any witnesses to the crime and/or the arrest, regardless of whether these are witnesses for the prosecution or for the defense;

- f. the child's current living arrangements, family relationships, and ties to the community, including the length of time his or her family has lived at the current and former addresses, as well as the child's supervision when at home;

- g. any prior names or aliases used, employment record and history, and social security number;

- h. the immigration status of the child and his or her family members, if applicable;

- i. the child's educational history, including current grade level, attendance and any disciplinary history;

j. the child's physical and mental health, including any impairing conditions such as substance abuse or learning disabilities, and any prescribed medications and other immediate needs;

k. the child's delinquency history, if any, including arrests, detentions, diversions, adjudications, and failures to appear in court;

l. whether there are any other pending charges against the child and the identity of any other appointed or retained counsel;

m. whether the child is on probation (and the nature of the probation) or post-release supervision and, if so, the name of his or her probation officer or counselor and the child's past or present performance under supervision;

n. the options available to the child for release if the child is in secure custody;

o. the names of individuals or other sources that the attorney can contact to verify the information provided by the child and the permission of the child to contact those sources;

p. the ability of the child's family to meet any financial conditions of release (for clients in detention); and

q. where appropriate, evidence of the child's competence to participate in delinquency proceedings and/or mental state at the time of the offense, including releases from the client for any records for treatment or testing for mental health or mental retardation.

E. Throughout the delinquency process, the attorney should take the time to:

1. keep the child informed of the nature and status of the proceedings on an ongoing basis;

2. maintain regular contact with the child during the course of the case and especially before court hearings;

3. review all discovery with the child as part of the case theory development;

4. promptly respond to telephone calls and other types of contact from the child, where possible, within one business day or a reasonable time thereafter;

5. counsel the child on options and related consequences and decisions to be made; and

6. seek the lawful objectives of the child and not substitute the attorney's judgment for that of the child in those case decisions that are the responsibility of the child. Where an attorney believes that the child's desires are not in his or her best interest, the attorney should discuss the consequences of the child's position. If the child maintains his or her position, the attorney should defend the child's expressed interests vigorously within the bounds of the law.

F. In interviewing a child, it is proper for the lawyer to question the credibility of the child's statements or those of any other witness. The lawyer shall not, however, suggest expressly or by implication that the child or any other witness prepare or give, on oath or to the lawyer, a version of the facts which is in any respect untruthful, nor shall the lawyer intimate that the child should be less than candid in revealing material facts to the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1333. Transfer to Adult Proceedings

A. The attorney should be familiar with laws subjecting a child to the exclusive jurisdiction of a court exercising

criminal jurisdiction, including the offenses subjecting the client to such jurisdiction. Counsel should seek to discover at the earliest opportunity whether transfer will be sought and, if so, the procedure and criteria according to which that determination will be made.

B. Upon learning that transfer will be sought or may be elected, the attorney should fully explain the nature of the proceeding and the consequences of transfer to the child and the child's parents. In so doing, counsel may further advise the child concerning participation in diagnostic and treatment programs that may provide information material to the transfer decision.

C. The attorney should be aware when an indictment may be filed directly in adult court by a district attorney and take actions to prevent such a filing including:

1. promptly investigating all circumstances of the case bearing on the appropriateness of filing the case in adult court and seeking disclosure of any reports or other evidence that the district attorney is using in his or her consideration of a direct filing;

2. moving promptly for appointment of an investigator or expert witness to aid in the preparation of the defense when circumstances warrant; and

3. where appropriate, moving promptly for the appointment of a competency or sanity commission prior to the transfer.

D. Where a district attorney may transfer the case either through indictment filed directly in adult court or by a finding of probable cause at a continued custody hearing in juvenile court, the attorney should present all facts and mitigating evidence to the district attorney to keep the child in juvenile court.

E. Where the district attorney makes a motion to conduct a hearing to consider whether to transfer the child, the attorney should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child;

2. identify, locate and interview exculpatory or mitigating witnesses;

3. consider obtaining an expert witness to testify to the amenability of the child to rehabilitation; and

4. present all facts and mitigating evidence to the court to keep the juvenile client in juvenile court.

F. In preparing for a transfer hearing, the attorney should be familiar with all the procedural protections available to the child including but not limited to discovery, cross-examination, compelling witnesses.

G. If the attorney who represented the child in the delinquency court will not represent the child in the adult proceeding, the delinquency attorney should ensure the new attorney has all the information acquired to help in the adult proceedings.

H. If transfer for criminal prosecution is ordered, the lawyer should act promptly to preserve an appeal from that order and should be prepared to make any appropriate motions for post-transfer relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1335. Mental Health Examinations

A. Throughout a delinquency proceeding, either party may request or the judge may order a mental health

examination of the child. Admissions made during such examinations may not be protected from disclosure. The attorney should ensure the child understands the consequences of admissions during such examinations and advise the client that personal information about the child or the child's family may be revealed to the court or other personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1337. Mental Incapacity to Proceed

A. The attorney should be familiar with procedures for a determination of mental incapacity to proceed under the Louisiana Children's Code and other provisions of Louisiana law.

B. Although the client's expressed interests ordinarily control, the attorney should question capacity to proceed without the child's approval or over the child's objection, if necessary.

C. If, at any time, the child's behavior or mental ability indicates that he or she may be incompetent, the attorney should consider filing a motion for a competency commission.

D. The attorney should prepare for and participate fully in the competency hearing.

E. Prior to the evaluation by the commission, the attorney should request from the child and provide to the commission all relevant documents including but not limited to the arrest report, prior psychological/psychiatric evaluations, school records and any other important medical records.

F. Where appropriate, the attorney should advise the client of the potential consequences of a finding of incompetence. Prior to any proceeding, the attorney should be familiar with all aspects of the evaluation and should seek additional expert advice where appropriate. If the competency commission's finding is that the child is competent, where appropriate, the attorney should consider calling an independent mental health expert to testify at the competency hearing.

G. The attorney should be aware that the burden of proof is on the child to prove incompetency and that the standard of proof is a preponderance of the evidence.

H. If the child is found incompetent, the attorney should participate, to the extent possible, in the development of the mental competency plan and in any subsequent meetings or hearings regarding the child's mental capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1339. Insanity

A. The attorney should be familiar with the procedures for determination of sanity at the time of the offense and notice requirements under the Louisiana Children's Code and other provisions of Louisiana law when proceeding with an insanity defense.

B. If the attorney believes that the child did not appreciate the consequences of his or her actions at the time of the offense, the attorney should consider filing for a sanity commission.

C. The attorney should advise the child that if he or she is found not delinquent by reason of insanity, the court may involuntarily commit the child to the Department of Health and Hospitals for treatment. The attorney should be prepared to advocate on behalf of the child against involuntary commitment and provide other treatment options such as outpatient counseling or services.

D. The attorney should be prepared to raise the issue of sanity during all phases of the proceedings, if the attorney's relationship with the child reveals that such a plea is appropriate.

E. The attorney should be aware that the child has the burden of establishing the defense of insanity at the time of the offense by a preponderance of the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1341. Manifestation of a Disability

A. Where the child's actions that are the subject of the delinquency charge suggest a manifestation of a disability, the attorney should argue that the disability prevented the client from having the mental capacity or specific intent to commit the crime. Where appropriate, for school-based offenses, the attorney should argue that the school did not follow the child's individual education program, which could have prevented the client's behavior. The attorney should seek a judgment of dismissal or a finding that the juvenile is not delinquent. This information may also be used for mitigation at the time of disposition following a plea or a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1343. Ensure Official Recording of Court Proceedings

A. The attorney should take all necessary steps to ensure a full official recording of all aspects of the court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1345. Investigation

A. The child's attorney shall conduct a prompt and diligent independent case investigation. The child's admissions of responsibility or other statements to counsel do not necessarily obviate the need for investigation.

B. The attorney should ensure that the charges and disposition are factually and legally correct and the child is aware of potential defenses to the charges.

C. The attorney should examine all charging documents to determine the specific charges that have been brought against the child, including the arrest warrant, accusation and/or indictment documents, and copies of all charging documents in the case. The relevant statutes and precedents should be examined to identify the elements of the offense(s) with which the child is charged, both the ordinary and affirmative defenses that may be available, any lesser included offenses that may be available, and any defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.

D. The attorney should seek investigators and experts, as needed, to assist the attorney in the preparation of a defense, in the understanding of the prosecution's case, or in the rebuttal of the prosecution's case.

E. Where circumstances appear to warrant it, the lawyer should also investigate resources and services available in the community and, if appropriate, recommend them to the child and child's family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1347. Diversion/Alternatives

A. The attorney should be familiar with diversionary programs and alternative solutions available in the community. Such programs may include diversion, mediation, or other alternatives that could result in a child's case being dismissed or handled informally. When appropriate and available, the attorney shall advocate for the use of informal mechanisms that could divert the client's case from the formal court process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1349. Continued Custody Hearing

A. The attorney should take steps to see that the continued custody hearing is conducted in a timely fashion unless there are strategic reasons for not doing so.

B. In preparing for the continued custody hearing, the attorney should become familiar with:

1. the elements of each of the offenses alleged;
2. the law for establishing probable cause;
3. factual information that is available concerning probable cause;
4. the subpoena process for obtaining compulsory attendance of witnesses at continued custody hearing and the necessary steps to be taken in order to obtain a proper recordation of the proceedings;
5. the child's custodial situation, including all persons living in the home;
6. alternative living arrangements for the client where the current custodial situation is an obstacle to release from detention; and
7. potential conditions for release from detention and local options to fulfill those conditions, including the criteria for setting bail and options for the family to meet bail requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1351. Appearance to Answer

A. The attorney should preserve the child's rights at the appearance to answer on the charges by requesting a speedy trial, preserving the right to file motions, demanding discovery, and entering a plea of denial in most circumstances, unless there is a sound tactical reason for not doing so or the child expresses an informed decision to resolve the matter quickly.

B. Where appropriate, the attorney should arrange for the court to address any immediate needs of the child, such as

educational/vocational needs, emotional/mental/physical health needs, and safety needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1353. Child's Right to Speedy Trial

A. The attorney should be aware of and protect the child's right to a speedy trial, unless strategic considerations warrant otherwise. Requests or agreements to continue a contested hearing date should not be made without consultation with the child. The attorney shall diligently work to complete the investigation and preparation in order to be fully prepared for all court proceedings. In the event an attorney finds it necessary to seek additional time to adequately prepare for a proceeding, the attorney should consult with the child and discuss seeking a continuance of the upcoming proceeding. Whenever possible, written motions for continuance made in advance of the proceeding are preferable to oral requests for continuance. All requests for a continuance should be supported by well-articulated reasons on the record in the event it becomes an appealable issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1355. Discovery

A. The attorney should pursue discovery, including filing a motion for discovery and conducting appropriate interviews. The attorney has a duty to pursue, as soon as practicable, discovery procedures provided by the rules of the jurisdiction and to pursue such informal discovery methods as may be available to supplement the factual investigation of the case.

B. In considering discovery requests, the attorney should take into account that such requests may trigger reciprocal discovery obligations. The attorney shall be familiar with the rules regarding reciprocal discovery. The attorney shall be aware of any potential obligations and time limits regarding reciprocal discovery. Where the attorney intends to offer an alibi defense, he or she shall provide notice to the district attorney as required by law.

C. The attorney should consider seeking discovery, at a minimum, of the following items:

1. potential exculpatory information;
2. potential mitigating information;
3. the names and addresses of all prosecution witnesses, their prior statements, and criminal/delinquency records, if any;
4. all oral and/or written statements by the child, and the details of the circumstances under which the statements were made;
5. the prior delinquency record of the child and any evidence of other misconduct that the government may intend to use against the accused;
6. all books, papers, documents, photographs, tangible objects, buildings or places, or copies, descriptions, or other representations, or portions thereof, relevant to the case;
7. all results or reports of relevant physical or mental examinations, and of scientific tests or experiments, or copies thereof;

8. statements of co-defendants;
9. all investigative reports by all law enforcement and other agencies involved in the case; and
10. all records of evidence collected and retained by law enforcement.

D. The attorney shall monitor the dates to ensure the state complies with its discovery obligations. If discovery violations occur, the attorney should seek prompt compliance and/or sanctions for failure to comply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1357. Theory of the Case

A. During the investigation and adjudication hearing preparation, the attorney should develop and continually reassess a theory of the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1359. Motions

A. The attorney should file motions, responses or objections as necessary to zealously represent the client. The attorney should consider filing an appropriate motion whenever there exists a good faith reason to believe that the child is entitled to relief that the court has discretion to grant. The attorney should file motions as soon as possible due to the time constraints of juvenile court.

B. The decision to file motions should be made after considering the applicable law in light of the known circumstances of each case.

C. Among the issues that counsel should consider addressing in a motion include, but are not limited to:

1. the pre-adjudication custody of the child;
2. the constitutionality of the implicated statute or statutes;
3. the potential defects in the charging process;
4. the sufficiency of the charging document;
5. the propriety and prejudice of any joinder of charges or defendants in the charging document;
6. the discovery obligations of the state and the reciprocal discovery obligations of the defense;
7. the suppression of evidence gathered as the result of violations of the Fourth, Fifth or Sixth Amendments to the United States Constitution, state constitutional provisions or statutes, including:
 - a. the fruits of illegal searches or seizures;
 - b. involuntary statements or confessions;
 - c. statements or confessions obtained in violation of the child's right to an attorney, or privilege against self-incrimination; or
 - d. unreliable identification evidence that would give rise to a substantial likelihood of irreparable misidentification.
8. the suppression of evidence gathered in violation of any right, duty or privilege arising out of state or local law;
9. in consultation with the child, a mental or physical examination of the child;
10. relief due to mental incapacity, incompetency, mental retardation or mental illness;
11. access to resources that or experts who may be denied to the child because of his or her indigence;

12. the child's right to a speedy trial;
13. the child's right to a continuance in order to adequately prepare his or her case;
14. matters of evidence which may be appropriately litigated by means of a pre-adjudication motion in limine;
15. motion for judgment of dismissal; or
16. matters of adjudication or courtroom procedures, including inappropriate clothing or restraints of the client.

D. The attorney should withdraw a motion or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the child's rights, including later claims of waiver or procedural default. The attorney has a continuing duty to file motions as new issues arise or new evidence is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1361. Plea Negotiations

A. The attorney should explore with the child the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to an adjudication, and in doing so, should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to adjudication. After the attorney is fully informed on the facts and the law, he or she should, with complete candor, advise the child concerning all aspects of the case, including counsel's frank estimate of the probable outcome. Counsel should not understate or overstate the risks, hazards or prospects of the case in order unduly or improperly to influence the child's determination of his or her posture in the matter.

B. The attorney shall not accept any plea agreement without the child's express authorization.

C. The existence of ongoing tentative plea negotiations with the prosecution should not prevent the attorney from taking steps necessary to preserve a defense nor should the existence of ongoing plea negotiations prevent or delay the attorney's investigation into the facts of the case and preparation of the case for further proceedings, including adjudication.

D. The attorney should participate in plea negotiations to seek the best result possible for the child consistent with the child's interests and directions to the attorney. The attorney should consider narrowing contested issues or reaching global resolution of multiple pending cases. Prior to entering into any negotiations, the attorney shall have sufficient knowledge of the strengths and weaknesses of the child's case, or of the issue under negotiation, enabling the attorney to advise the child of the risks and benefits of settlement.

E. In conducting plea negotiations, the attorney should be familiar with:

1. the various types of pleas that may be agreed to, including an admission, a plea of nolo contendere, and a plea in which the child is not required to personally acknowledge his or her guilt (Alford plea);
2. the advantages and disadvantages of each available plea according to the circumstances of the case; and
3. whether the plea agreement is binding on the court and the Office of Juvenile Justice.

F. In conducting plea negotiations, the attorney should attempt to become familiar with the practices and policies of

the particular jurisdiction, judge and prosecuting authority, and probation department that may affect the content and likely results of negotiated pleas.

G. In preparing to enter a plea before the court, the attorney should explain to the child the nature of the plea hearing and prepare the child for the role he or she will play in the hearing, including answering questions of the judge and providing a statement concerning the offense and the appropriate disposition. Specifically, the attorney should:

1. be satisfied there is a factual or strategic basis for the plea or admission or Alford plea;
2. make certain that the child understands the rights he or she will waive by entering the plea and that the child's decision to waive those rights is knowing, voluntary and intelligent; and
3. be satisfied that the plea is voluntary and that the child understands the nature of the charges.

H. When the plea is against the advice of the attorney or without adequate time to investigate, the attorney should indicate this on the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1363. Court Appearances

A. The attorney shall attend all hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1365. Preparing the Child for Hearings

A. The attorney should explain to the juvenile, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

B. The attorney should advise the client as to suitable courtroom dress and demeanor. If the client is detained, the attorney should consider requesting the client's appearance unshackled and unchained. The attorney should also be alert to the possible prejudicial effects of the client appearing before the court in jail or other inappropriate clothing.

C. The attorney should plan with the client the most convenient system for conferring throughout the delinquency proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1367. Adjudication Preparation

A. Where appropriate, the attorney should have the following materials available at the time of trial:

1. copies of all relevant documents filed in the case;
2. relevant documents prepared by investigators;
3. outline or draft of opening statement;
4. cross-examination plans for all possible prosecution witnesses;
5. direct examination plans for all prospective defense witnesses;
6. copies of defense subpoenas;
7. prior statements of all prosecution witnesses (e.g., transcripts, police reports) and prepared transcripts of any audio or video taped witness statements;
8. prior statements of all defense witnesses;
9. reports from all experts;

10. a list of all defense exhibits, and the witnesses through whom they will be introduced;

11. originals and copies of all documentary exhibits;

12. copies of all relevant statutes and cases; and

13. outline or draft of closing argument.

B. The attorney should be fully informed as to the rules of evidence, court rules, and the law relating to all stages of the delinquency proceedings, and should be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the adjudication.

C. The attorney should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior adjudications to impeach the child) and, where appropriate, the attorney should prepare motions and memoranda for such advance rulings.

D. Throughout the adjudication process, the attorney should endeavor to establish a proper record for appellate review. The attorney shall be familiar with the substantive and procedural law regarding the preservation of legal error for appellate review, and should ensure that a sufficient record is made to preserve appropriate and potentially meritorious legal issues for such appellate review unless there are strategic reasons for not doing so.

E. Where necessary, the attorney should seek a court order to have the child available for conferences.

F. Throughout preparation and adjudication, the attorney should consider the potential effects that particular actions may have upon sentencing if there is a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1369. Objections

A. The attorney should make appropriate motions, including motions in limine and evidentiary and other objections, to advance the child's position at adjudication or during other hearings. The attorney should be aware of the burdens of proof, evidentiary principles and court procedures applying to the motion hearing. If necessary, the attorney should file briefs in support of evidentiary issues. Further, during all hearings, the attorney should preserve legal issues for appeal, as appropriate.

B. Control of proceedings is principally the responsibility of the court, and the lawyer should comply promptly with all rules, orders, and decisions of the judge. Counsel has the right to make respectful requests for reconsideration of adverse rulings and has the duty to set forth on the record adverse rulings or judicial conduct that the attorney considers prejudicial to the child's legitimate interests.

C. The attorney should be prepared to object to the introduction of any evidence damaging to the child's interests if counsel has any legitimate doubt concerning its admissibility under constitutional or local rules of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1371. Sequestration of Witnesses

A. Prior to delivering an opening statement, the attorney should ask for the rule of sequestration of witnesses to be invoked, unless a strategic reason exists for not doing so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1373. Opening Statements

A. The attorney should be familiar with the law and the individual trial judge's rules regarding the permissibility and permissible content of an opening statement. The attorney should consider the strategic advantages and disadvantages of disclosure of particular information during the opening statement and of deferring the opening statement until the beginning of the defense case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1375. Confronting the Prosecutor's Case

A. The attorney should attempt to anticipate weaknesses in the prosecution's proof and consider researching and preparing corresponding motions for judgment of dismissal. The attorney should systematically analyze all potential prosecution evidence, including physical evidence, for evidentiary problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1377. Stipulations

A. The attorney should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1379. Cross-Examination

A. In preparing for cross-examination, the attorney should be familiar with the applicable law and procedures concerning cross-examinations and impeachment of witnesses. In order to develop material for impeachment or to discover documents subject to disclosure, the attorney should be prepared to question witnesses as to the existence of prior statements that they may have made or adopted.

B. In preparing for cross-examination, the attorney should:

1. obtain the prior records of all state and defense witnesses;
2. be prepared to examine any witness;
3. consider the need to integrate cross-examination, the theory of the defense, and closing argument;
4. consider whether cross-examination of each individual witness is likely to generate helpful information;
5. anticipate those witnesses the prosecutor might call in its case-in-chief or in rebuttal;
6. consider a cross-examination plan for each of the anticipated witnesses;
7. be alert to inconsistencies in witnesses' testimony;
8. be alert to possible variations in witnesses' testimony;
9. review all prior statements of the witnesses and any prior relevant testimony of the prospective witnesses;
10. where appropriate, review relevant statutes and local police policy and procedure manuals, disciplinary

records and department regulations for possible use in cross-examining police witnesses;

11. have prepared, for introduction into evidence, all documents that counsel intends to use during the cross-examination, including certified copies of records such as prior convictions of the witnesses or prior sworn testimony of the witnesses; and

12. be alert to issues relating to witness credibility, including bias and motive for testifying.

C. The lawyer should be prepared to examine fully any witness whose testimony is damaging to the child's interests.

D. The lawyer's knowledge that a witness is telling the truth does not preclude cross-examination in all circumstances but may affect the method and scope of cross-examination.

E. The attorney should consider conducting a voir dire examination of potential prosecution witnesses who may not be competent to give particular testimony, including expert witnesses whom the prosecutor may call. The attorney should be aware of the law of competency of witnesses, in general, and admission of expert testimony, in particular, in order to be able to raise appropriate objections.

F. Before beginning cross-examination, the attorney should ascertain whether the prosecutor has provided copies of all prior statements of the witnesses as required by law. If the attorney does not receive prior statements of prosecution witnesses until they have completed direct examination, the attorney should request adequate time to review these documents before commencing cross-examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1381. Conclusion of Prosecution's Evidence

A. Where appropriate, at the close of the prosecution's case, the attorney should move for a dismissal of petition on each count charged. The attorney should request, when necessary, that the court immediately rule on the motion, in order that the attorney may make an informed decision about whether to present a defense case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1383. Defense Strategy

A. The attorney should develop, in consultation with the child, an overall defense strategy. In deciding on a defense strategy, the attorney should consider whether the child's legal interests are best served by not putting on a defense case, and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt. In developing and presenting the defense case, the attorney should consider the implications it may have for a rebuttal by the prosecutor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1385. Affirmative Defenses

A. The attorney should be aware of the elements and burdens of proof of any affirmative defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1387. Direct Examination

A. In preparing for presentation of a defense case, the attorney should, where appropriate:

1. develop a plan for direct examination of each potential defense witness;
2. determine the implications that the order of witnesses may have on the defense case;
3. determine what facts necessary for the defense case can be elicited through the cross-examination of the prosecution's witnesses;
4. consider the possible use of character witnesses, to the extent that use of character witnesses does not allow the prosecution to introduce potentially harmful evidence against the child;
5. consider the need for expert witnesses and what evidence must be submitted to lay the foundation for the expert's testimony;
6. review all documentary evidence that must be presented;
7. review all tangible evidence that must be presented; and
8. after the state's presentation of evidence and a discussion with the child, make the decision whether to call any witnesses.

B. The attorney should conduct redirect examination as appropriate.

C. The attorney should prepare all witnesses for direct and possible cross-examination. Where appropriate, the attorney should also advise witnesses of suitable courtroom dress and demeanor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1389. Child's Right to Testify

A. The attorney shall respect the child's right to decide whether to testify.

B. The attorney should discuss with the child all of the considerations relevant to the child's decision to testify. This advice should include consideration of the child's need or desire to testify, any repercussions of testifying, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions that may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand possible cross-examination.

C. The attorney should be familiar with his or her ethical responsibilities that may be applicable if the child insists on testifying untruthfully. If the child indicates an intent to commit perjury, the attorney shall advise the child against taking the stand to testify falsely and, if necessary, take appropriate steps to avoid lending aid to perjury. If the child persists in a course of action involving the attorney's services that the attorney reasonably believes is criminal or fraudulent, the attorney should seek the leave of the court to withdraw from the case. If withdrawal from the case is not feasible or is not permitted by the court, or if the situation arises during adjudication without notice, the attorney shall not lend aid to perjury or use the perjured testimony. The attorney should maintain a record of the advice provided to

the child and the child's decision concerning whether to testify.

D. The attorney should protect the child's privilege against self-incrimination in juvenile court proceedings. When the child has elected not to testify, the lawyer should be alert to invoke the privilege and should insist on its recognition unless the client competently decides that invocation should not be continued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1391. Preparing the Child to Testify

A. If the child decides to testify, the attorney should prepare the child to testify. This should include familiarizing the child with the courtroom, court procedures, and what to expect during direct and cross-examination. Often the decision whether to testify may change at trial. Thus, the attorney should prepare the case for either contingency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1393. Questioning the Child

A. The attorney should seek to ensure that questions to the child are phrased in a developmentally appropriate manner. The attorney should object to any inappropriate questions by the court or an opposing attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1395. Closing Arguments

A. The attorney should be familiar with the court rules, applicable statutes and law, and the individual judge's practice concerning time limits and objections during closing argument, and provisions for rebuttal argument by the prosecution. The attorney should consider the strategic advantages and disadvantages of a closing statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1397. Motion for a New Trial

A. The attorney should be familiar with the procedures available to request a new trial including the time period for filing such a motion, the effect it has upon the time to file a notice of appeal, and the grounds that can be raised.

B. When a judgment of delinquency has been entered against the client after trial, the attorney should consider whether it is appropriate to file a motion for a new trial with the trial court. In deciding whether to file such a motion, the factors the attorney should consider include:

1. the likelihood of success of the motion, given the nature of the error(s) that can be raised; and
2. the effect that such a motion might have upon the client's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the child's right to raise on appeal the issues that might be raised in the new trial motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1399. Expungement

A. The attorney should inform the child of any procedures available for requesting that the record of conviction be expunged or sealed. The attorney should explain that some contents of juvenile court records may be made public (e.g., when a violent crime has been committed) and that there are limitations on the expungement of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

Chapter 15. Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings—Post-Adjudication

§1501. Post-adjudication Placement Pending Disposition

A. Following the entry of an adjudication, the attorney should be prepared to argue for the least restrictive environment for the child pending disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1503. Defense's Active Participation in Designing the Disposition

A. The active participation of the child's attorney at disposition is essential. In many cases, the attorney's most valuable service to the child will be rendered at this stage of the proceeding. Counsel should have the disposition hearing held on a subsequent date after the adjudication, unless there is a strategic reason for waiving the delay between adjudication and disposition.

B. Prior to disposition there may be non-court meetings and staffings that can affect the juvenile's placement or liberty interest. The attorney should attend or participate in these, where possible.

C. The attorney should not make or agree to a specific dispositional recommendation without the child's consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1505. Obligations of Counsel Regarding Disposition

A. The child's attorney should prepare for a disposition hearing as the attorney would for any other evidentiary hearing, including the consideration of calling appropriate witnesses and the preparation of evidence in mitigation of or support of the recommended disposition. Among the attorney's obligations regarding the disposition hearing are:

1. to ensure all information presented to the court which may harm the child and which is not accurate and truthful or is otherwise improper is stricken from the text of the predisposition investigation report;

2. to develop a plan which seeks to achieve the least restrictive and burdensome sentencing alternative that is most acceptable to the child, and which can reasonably be obtained based on the facts and circumstances of the offense, the child's background, the applicable sentencing provisions, and other information pertinent to the disposition;

3. to ensure all reasonably available mitigating and favorable information, which is likely to benefit the child, is presented to the court;

4. to consider preparing a letter or memorandum to the judge or juvenile probation officer that highlights the child's strengths and the appropriateness of the disposition plan proposed by the defense; and

5. where a defendant chooses not to proceed to disposition, to ensure that a plea agreement is negotiated with consideration of the disposition hearing, correctional, financial and collateral implications.

B. The attorney should be familiar with disposition provisions and options applicable to the case, including but not limited to:

1. any disposition assessment tools;
2. detention including any mandatory minimum requirements;

3. deferred disposition and diversionary programs;
4. probation or suspension of disposition and permissible conditions of probation;

5. credit for pre-adjudication detention;

6. restitution;

7. commitment to the Office of Juvenile Justice at a residential or non-residential program;

8. place of confinement and level of security and classification criteria used by Office of Juvenile Justice;

9. eligibility for correctional and educational programs; and

10. availability of drug rehabilitation programs, psychiatric treatment, health care, and other treatment programs.

C. The attorney should be familiar with the direct and collateral consequences of adjudication and the disposition, including:

1. the impact of a fine or restitution and any resulting civil liability;

2. possible revocation of probation or parole if client is serving a prior sentence on a parole status;

3. future enhancement on dispositions;

4. loss of participation in extra-curricular activities;

5. loss of college scholarships;

6. suspension or expulsion from school;

7. the inability to be employed in certain occupations including the military;

8. suspension of a motor vehicle operator's permit or license;

9. ineligibility for various government programs (e.g., student loans) or the loss of public housing or other benefits;

10. the requirement to register as a sex offender;

11. the requirement to submit a DNA sample;

12. deportation/removal and other immigration consequences;

13. the loss of other rights (e.g., loss of the right to vote, to carry a firearm or to hold public office);

14. the availability of juvenile arrest or court records to the public, in certain cases; or

15. the transmission of juvenile arrest records, court records, or identifying information to federal law enforcement agencies.

D. The attorney should be familiar with disposition hearing procedures, including:

1. the effect that plea negotiations may have upon the disposition discretion of the court and/or the Office of Juvenile Justice;

2. the availability of an evidentiary hearing and the applicable rules of evidence and burdens of proof at such a hearing;

3. the use of “victim impact” evidence at any disposition hearing;

4. the right of the child to speak prior to receiving the disposition;

5. any discovery rules and reciprocal discovery rules that apply to disposition hearings; and

6. the use of any sentencing guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1507. Preparing the Child for the Disposition Hearing

A. In preparing for the disposition hearing, counsel should consider the need to:

1. explain to the child the nature of the disposition hearing, the issues involved, the applicable sentencing requirements, disposition options and alternatives available to the court, and the likely and possible consequences of the disposition alternatives;

2. explain fully and candidly to the child the nature, obligations, and consequences of any proposed dispositional plan, including the meaning of conditions of probation or conditional release, the characteristics of any institution to which commitment is possible, and the probable duration of the child’s responsibilities under the proposed dispositional plan;

3. obtain from the child relevant information concerning such subjects as his or her background and personal history, prior criminal or delinquency record, employment history and skills, education, and medical history and condition, and obtain from the child sources through which the information provided can be corroborated;

4. prepare the child to be interviewed by the official preparing the predisposition report, including informing the child of the effects that admissions and other statements may have upon an appeal, retrial or other judicial proceedings, such as forfeiture or restitution proceedings;

5. inform the client of his or her right to speak at the disposition hearing and assist the client in preparing the statement, if any, to be made to the court, considering the possible consequences that any admission to committing delinquent acts may have upon an appeal, subsequent retrial or trial on other offenses;

6. when psychological or psychiatric evaluations are ordered by the court or arranged by the attorney prior to disposition, the attorney should explain the nature of the procedure to the child and the potential lack of confidentiality of disclosures to the evaluator;

7. ensure the child has adequate time to examine the predisposition report, if one is utilized by the court; and

8. maintain regular contact with the child prior to the disposition hearing and inform the client of the steps being taken in preparation for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1509. Predisposition Report

A. Where the court uses a predisposition report, counsel should be familiar with the procedures concerning the preparation, submission, and verification of the predisposition report. Counsel should be prepared to use the predisposition report in defense of the child.

B. Counsel should be familiar with the practices of the officials who prepare the predisposition report and the defendant’s rights in that process, including access to the predisposition report by the attorney and the child, and ability to waive such a report, if it is in the child’s interest to do so.

C. Counsel should provide to the official preparing the report relevant information favorable to the client, including, where appropriate, the child’s version of the alleged act. Counsel should also take appropriate steps to ensure that erroneous or misleading information which may harm the child is deleted from the report and to preserve and protect the child’s interests, including requesting that a new report be prepared with the challenged or unproven information deleted before the report or memorandum is distributed to the Office of Juvenile Justice or treatment officials.

D. In preparation for a disposition hearing, the attorney should ensure receipt of the disposition report no later than 72 hours prior to the disposition hearing. Upon receipt of this report, the attorney should review the report with the client, ensure its accuracy and prepare a response to the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1511. Prosecution's Disposition Position

A. The attorney should attempt to determine, unless there is a sound tactical reason for not doing so, whether the prosecution will advocate that a particular type or length of disposition be imposed and attempt to persuade the district attorney to support the child’s requested disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1513. Disposition Hearing

A. The attorney should be prepared at the disposition hearing to take the steps necessary to advocate fully for the requested disposition and to protect the child’s interest.

B. Where the dispositional hearing is not separate from adjudication or where the court does not have before it all evidence required by statute, rules of court or the circumstances of the case, the lawyer should seek a continuance until such evidence can be presented if to do so would serve the child’s interests.

C. The lawyer at disposition should examine fully and, where possible, impeach any witness whose evidence is damaging to the child’s interests and to challenge the accuracy, credibility, and weight of any reports, written statements, or other evidence before the court. The lawyer should not knowingly limit or forego examination or contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the child’s interests. Counsel

should seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

D. Where information favorable to the child will be disputed or challenged, the attorney should be prepared to present supporting evidence, including testimony of witnesses, to establish the facts favorable to the child.

E. Where the court has the authority to do so, counsel should request specific recommendations from the court concerning the place of detention, probation or suspension of part or all of the sentence, psychiatric treatment or drug rehabilitation.

F. During the hearing if the court is indicating a commitment is likely, the attorney should attempt to ensure that the child is placed in the most appropriate, least restrictive placement available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1515. Post-Disposition Counseling

A. When a disposition order has been entered, it is the attorney's duty to explain the nature, obligations and consequences of the disposition to the child and to urge upon the child the need for accepting and cooperating with the dispositional order. The child should also understand the consequences of a violation of the order.

B. Where the court places the child in the custody of the Office of Juvenile Justice, with the child's permission and a parent's written release, the attorney should provide the Office of Juvenile Justice with a copy of the child's education records.

C. If appeal from either the adjudicative or dispositional decree is contemplated, the child should be advised of that possibility, but the attorney shall counsel compliance with the court's decision during the interim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1517. Reviewing or Drafting Court Orders

A. Counsel's attorney should review all written orders or when necessary draft orders to ensure that the child's interests are protected, to ensure the orders are clear and specific, and to ensure the order accurately reflects the court's oral pronouncement and complies with the applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1519. Monitoring the Child's Post-disposition Detention

A. The attorney should monitor the child's post-disposition detention status and ensure that the child is placed in a commitment program in a timely manner as provided by law.

B. When a child is committed to a program, the attorney shall provide the child information on how to contact the attorney to discuss concerns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1521. Post-Disposition Representation

A. The lawyer's responsibility to the child does not end with the entry of a final dispositional order. Louisiana law entitles juveniles to representation at every stage of the proceeding, including post-disposition matters. The attorney should be prepared to counsel and render or assist in securing appropriate legal services for the child in matters arising from the original proceeding.

B. The lawyer engaged in post-dispositional representation should conduct those proceedings according to the principles generally governing representation in juvenile court matters. The attorney should be prepared to actively participate in hearings regarding probation status. When a child is committed to a program and the attorney receives notice of an Office of Juvenile Justice transfer staffing or decision, the attorney should review and challenge the decision and, if appropriate, bring the matter to the trial court.

C. Where the lawyer is aware that the child or the child's family needs and desires community or other medical, psychiatric, psychological, social or legal services, he or she may render assistance in arranging for such services.

D. The lawyer should contact both the child and the agency or institution involved in the disposition plan at regular intervals in order to ensure that the child's rights are respected and, where necessary, to counsel the child and the child's family concerning the dispositional plan.

E. Even after an attorney's representation in a case is complete, the attorney should comply with a child's reasonable requests for information and materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1523. Child's Right to Appeal

A. Following a delinquency adjudication, the attorney should inform the child of his or her right to appeal the judgment of the court and the action that must be taken to perfect an appeal. This discussion should include the details of the appellate process including the time frames of decisions, the child's obligations pending appeal, and the possibility of success on appeal.

B. Counsel representing the child following a delinquency adjudication should promptly undertake any factual or legal investigation in order to determine whether grounds exist for relief from juvenile court or administrative action. If there is reasonable prospect of a favorable result, the lawyer should advise the child of the nature, consequences, probable outcome, and advantages or disadvantages associated with such proceedings.

C. After disposition, the attorney should consider filing a motion to reconsider the disposition. The attorney should consider an appeal of the disposition where appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1525. Counsel's Participation in Appeal

A. A lawyer who has represented a client through adjudication shall be prepared to continue representation in appellate actions, whether affirmative or defensive, unless new counsel is appointed at the request of the client or, in the case of a felony-grade delinquency matter, the trial attorney appropriately utilizes the services of the Louisiana Appellate Project, to the extent those appellate services are available.

B. Whether or not trial counsel expects to conduct the appeal, he or she shall promptly inform the child of the right to appeal and take all steps necessary to protect that right until appellate counsel is substituted or the child decides not to exercise this privilege.

C. If after such consultation and if the child wishes to appeal the order, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the client during the pendency of the appeal.

D. In circumstances where the child wants to file an appeal, the attorney should file the notice in accordance with the rules of the court and take such other steps as are necessary to preserve the defendant's right to appeal, such as ordering transcripts of the trial proceedings.

E. Where the child indicates a desire to appeal the judgment and/or disposition of the court, counsel should consider requesting a stay of execution of any disposition, particularly one involving out-of-home placement or secure care. If the stay is denied, the attorney should consider appealing the stay. The attorney should also inform the child of any right that may exist to be released on bail pending the disposition of the appeal. Where an appeal is taken and the child requests bail pending appeal, trial counsel should cooperate with appellate counsel in providing information to pursue the request for bail.

F. Where the child takes an appeal, trial counsel should cooperate in providing information to appellate counsel (where new counsel is handling the appeal) concerning the proceedings in the trial court.

G. Where there exists an adequate pool of competent counsel available for assignment to appeals from juvenile court orders and substitution will not work substantial disadvantage to the child's interests, new counsel may be appointed in place of trial counsel.

H. When the appellate decision is received, the attorney or substitute appellate counsel should explain the outcome of the case to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1527. Probation Revocation Representation

A. Trial counsel should be prepared to continue representation if revocation of the child's probation or parole is sought, unless new counsel is appointed.

B. The attorney appointed to represent the child charged with a violation of probation should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child;
2. review the probation department file;

3. identify, locate and interview exculpatory or mitigating witnesses;

4. consider reviewing the child's participation in mandated programs; and

5. consider obtaining expert assistance to test the validity of relevant scientific evidence (e.g., urinalysis results).

C. In preparing for a probation revocation, the attorney should be familiar with all the procedural protections available to the child including but not limited to discovery, cross-examination, compelling witnesses and timely filing of violations.

D. When representing a child in a revocation of probation hearing who was not a client of the attorney at the initial adjudication, the attorney should find out if the child was represented by an attorney in the underlying offense for which the child was placed on probation. The attorney may have an argument if the child entered an admission without counsel and did not give a valid waiver of counsel.

E. The attorney should prepare the child for the probation revocation hearing including the possibility of the child or parent being called as witnesses by the State. The attorney should also prepare the child for all possible consequences of a decision to enter a plea or the consequences of a probation revocation.

F. In preparing for the probation revocation, the attorney should prepare alternative dispositions including the possibility of negotiated alternatives such as a pre-hearing contempt proceeding or an additional disposition short of revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

§1529. Challenges to the Effectiveness of Counsel

A. Where a lawyer appointed or retained to represent a child previously represented by other counsel has a good faith belief that prior counsel did not provide effective assistance, the child should be so advised and any appropriate relief for the child on that ground should be pursued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by helping to ensure that indigent parents and/or their children accused of capital offenses will receive quality legal representation, thereby helping the family unit during a time of crisis.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety,

environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons who wish to submit data, views, comments, or arguments may do so by writing to Jean M. Faria, State Public Defender, 500 Laurel St., Ste. 300, Baton Rouge, LA 70801. Written comments will be accepted through 4:30 p.m. on Friday, June 24, 2010.

Jean M. Faria
State Public Defender

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Trial Court Performance
Standards for Attorneys Representing
Children in Delinquency Proceedings**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings to the state or local government units, as the objective of the proposed rules is to increase the quality of representation without increasing costs to the Louisiana Public Defender Board. Training will be provided at no cost to public defender attorneys. It is conceivable that District Public Defenders may incur some costs associated with travel (i.e., mileage, meals and lodging) if public defender attorneys working for them are required to travel to attend training.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on state or local revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed rules adopt provisions establishing mandatory guidelines and performance standards for the defense of children in delinquency proceedings. It is anticipated that implementation of these proposed rules will have minimal economic cost for public defender attorneys who must meet training requirements. The cost is indeterminable since training will be provided at no cost to such public defender attorneys. However, in the event District Public Defenders do not pay travel costs for public defender attorneys who work for them, it is conceivable that the individual public defender attorneys may incur some travel costs if they are required to travel to attend training.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

These proposed rules should not affect competition or employment.

Jean M. Faria
State Public Defender
1105#067

Evan Brasseau
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Definition of Louisiana Business
(LAC 42:XIII.1701)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.1701.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 17. General Provisions

§1701. Definitions

A. ...

* * *

Louisiana Business, Louisiana Company, Louisiana Corporation or Louisiana Firm—a business, company, corporation or firm which is at least 51 percent owned by one or more Louisiana individual domiciliaries and/or a corporation, limited liability company or other business entity with a legal and commercial domicile in Louisiana who also control and operate the business shall be considered a Louisiana business, company, corporation or firm for purposes of Louisiana gaming control law and regulations. A business, company, corporation or firm qualified with the Secretary of State and authorized to do business in Louisiana which has a physical presence in the state in the form of property or facilities owned or leased in Louisiana and which employs Louisiana residents who control or operate the Louisiana business activity or enterprise may be considered a Louisiana business, company, corporation or firm. *Control* in this context means exercising the power to make policy decisions. *Operate* in this context means being actively involved in the day-to-day management of the business. *Commercial domicile* in this context means the place from which the business is directed or managed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1314 (June 2000), LR 29:363 (March 2003), LR 34:2663 (December 2008), LR 37:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XIII.1701.

It is accordingly concluded that amending LAC 42:XIII.1701 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5, the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XIII.1701 is amended.

Public Comments

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through June 10, 2011, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definition of Louisiana Business

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed administrative rule change will have no implementation costs to state or local governmental units. The proposed rule is expanding the definition of what constitutes a Louisiana business to include a business whose corporate office is located in another state but maintains a physical presence in Louisiana and employs Louisiana residents.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed changes will not create a foreseeable impact on revenue collections for either the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Riverboat gaming licensees are required to make a good faith effort to procure goods and services from Louisiana businesses. Expanding the definition of a Louisiana business to include current vendors that are owned by out of state firms but who maintain a physical presence in Louisiana and employ Louisiana residents will increase the number of available vendors who are classified as Louisiana businesses. This will make it easier for the state's riverboat gaming licensees to comply with the good faith requirement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed administrative rule change may impact Louisiana employment by allowing the state's riverboat licensees to more easily procure goods and services from additional Louisiana businesses.

Dane K. Morgan
Chairman
1105#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
State Plumbing Board**

Continuing Professional Education Programs
(LAC 46:LV.Chapter 10)

The Louisiana State Plumbing Board (board), pursuant to R.S. 37:1366(I), which authorizes the board to establish and determine by rule minimum requirements relative to continuing professional development (CPE) for the renewal or reinstatement of any license or special endorsement issued by the board, proposes to amend plumbing regulations, LAC 46:LV.1001, 1003 and 1005, in accordance with the Administrative Procedure Act. The proposed Rule change allows the board to enter into cooperative endeavor agreements with statutory stakeholders; allows licensees to substitute industry recertification for CPE compliance requirements; and allows a CPE course provider to use non-licensed individuals to provide supervised instruction to CPE participants.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 10. Continuing Professional Education Programs

§1001. Journeyman and Master Plumbers

- A. - B.19. ...
- C. Course Form and Content
 1. ...
 2. CPE courses shall be presented in one of the following formats:
 - a. - c. ...
 - d. for master plumbers, two sessions totaling six classroom hours presented within a 30-day period.
 3. - 8. ...
 9. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within ~~30~~ ten days of completion.
 10. The board is authorized to enter into a cooperative endeavor agreement with either the Louisiana Association of Plumbing, Heating and Cooling Contractors of Louisiana or the Louisiana Pipe Trades Association, or any subsidiary or affiliate of either non-profit organization, to jointly provide CPE services to licensed journeyman and master plumbers. The board is authorized to share costs and expenses with either organization under terms and conditions that promote the public interest and avoid gratuitous donation of public funds.
- C.11. - D.9. ...
- E. Course Instructors
 1. - 1.c. ...
 2. An approved course instructor may use under its live supervision, a non-licensed supplemental lecturer to present additional materials as required. Prior to approval, a course instructor must identify to the Board,—any

supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended LR 37:

§1003. Water Supply Protection Specialists

A. CPE Requirement

1. Effective January 1, 2011, in addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE training class in the prior three calendar years, as set out in this Section. In lieu of attendance at any such class, the board may accept proof of the endorsee's attendance or participation in board-approved industry-related recertification programs during any three year period.

B. - C.1. ...

2. CPE courses shall be presented in one of the following formats:

a. a minimum of four classroom hours presented on one day; or

b. not less than two sessions of two classroom hours each presented within a 30-day period.

C.3. - D.9. ...

E. Course Instructors

1. - 1.c. ...

2. An approved course instructor may use, under its live supervision, a non-licensed, supplemental lecturer to present additional material as required. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:905 (March 2011), LR 37:

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. Effective January 1, 2012, in addition to the yearly renewal of their endorsement, all persons seeking to renew a medical gas piping installer or medical gas verifier license issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class between each NFPA 99C code cycle or any code change of the NFPA 99C, as set out in this Section. In lieu of attendance at any such class, the board may accept proof of the endorsee's attendance or participation in board approved industry-related recertification programs between each NFPA 99C code cycle or any code change of the NFPA 99C.

B. - D.9. ...

E. Course Instructors

1. - 1.c. ...

2. An approved course instructor may use under its live supervision, a non-licensed supplemental lecturer to present additional materials as required. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter lecturer will discuss within thirty days prior to the course being conducted.

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Family Impact Statement

1. Estimated Effect on the Stability of the Family. There is no estimated effect on the stability of the family.

2. Estimated Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children: There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated Effect on the Functioning of the Family. There is no estimated effect on the functioning of the family.

4. Estimated Effect on Family Earnings and Family Budget. There is no estimated effect on family earnings and family budget.

5. Estimated Effect on the Behavior and Personal Responsibility of Children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated Effect on the Ability of the Family or a local Government to Perform the Function as Contained in the Proposed Rule. There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to John Barker, Executive Director, 12497 Airline Highway, Baton Rouge, LA, no later than 5 p.m., June 20, 2010.

Louis Robein
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Professional Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to State or local governmental units. There may be savings incurring to the benefit of the Louisiana State Plumbing Board resulting from cost sharing arrangements with non-profit organizations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule allows the Louisiana State Plumbing Board to enter into Cooperative Endeavor Agreements with the Louisiana Association of Plumbing, Heating and Cooling

Contractors of Louisiana or the Louisiana Pipe Trades Association or any subsidiaries or affiliates to jointly provide continuing professional education (CPE) services, which are required to maintain licensure. These agreements allow the providers to give a fee, estimated at \$25 per attendee, to the Plumbing Board in exchange for administrative services. The board's revenues are expected to increase by an estimated \$75,000 per year (with less in the first year since the rule becomes effective during the fiscal year) through costs reimbursements attained through cooperative endeavor agreements.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule provides some flexibility in timing for master plumbers to obtain classroom hours, though the total amount of hours is unchanged. In addition, water supply protection specialists may obtain an endorsement by attending or participating in the recertification programs during any three-year period instead of the prior three calendar years. The minimum CPE course offerings for water supply protection

specialists will include four hours presented in one day or at least two sessions of two hours within a 30-day period. Medical gas piping installers and the medical gas verifier license CPE requirements are aligned to changes in the National Fire Protection Agency guidelines instead of calendar years. There will be an economic benefit to licensed plumbers obligated to comply with continuing professional education (CPE) requirements under State law resulting from liberalized CPE compliance procedures and Plumbing Board oversight of course instruction through cooperative endeavor agents with non-profit organizations qualified as CPE course providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no estimated effect on competition or employment.

Louis L. Robein
Board Attorney
1105#016

Gregg Albrecht
Chief Economist
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health and Hospitals Emergency Response Network Board

LERN Entry Criteria: Trauma
LERN Destination Protocol: Trauma

On April 21, 2011, the Louisiana Emergency Response Network Board [La. R.S. 40:2842(1) and (3)] adopted and

promulgated "LERN ENTRY CRITERIA: Trauma; Pre-Hospital and Hospital Triage Protocol" and "LERN DESTINATION PROTOCOL: Trauma" replacing the "Standard LERN Entry Trauma Criteria" and "Standard LERN Entry Trauma Criteria Destination Protocol" adopted and promulgated January 20, 2011, as follows:

LERN ENTRY CRITERIA: Trauma Pre-Hospital and Hospital Triage Protocol

Call LERN Communications Center for:

- | | |
|---|--|
| <ul style="list-style-type: none">• Unmanageable Airway• Tension Pneumothorax• Traumatic cardiac arrest | <ul style="list-style-type: none">• Burn Patient without patent airway• Burn patient >40% BSA without IV |
|---|--|

Physiologic

- | | |
|---|--|
| <ul style="list-style-type: none">• GCS <14• SBP <90 (adults and > 9 y/o)
 <70 + 2 [age (yrs)] (age 1 to 8 y/o)
 <70 (age 1 to 12 months)
 <60 (term neonate) | <ul style="list-style-type: none">• RR <10 or >29 (adults & ≥ 9 y/o)
 <15 or >30 (age 1 to 8 y/o)
 <25 or >50 (<12 m/o) |
|---|--|

Anatomic

- | | |
|--|--|
| <ul style="list-style-type: none">• Open or depressed skull fractures• Open head injury with or without CSF leak• Lateralizing signs or paralysis (i.e., one-sided weakness, motor, or sensory deficit)• All penetrating injuries to head, neck, torso, & extremities proximal to elbow & knee• Flail Chest• 2 or more proximal long-bone fractures• Crush, degloved or mangled extremity• Amputation proximal to wrist & ankle | <ul style="list-style-type: none">• Pelvic Fractures• Hip Fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls• Major joint dislocations (hip, knee, ankle, elbow)• Open Fractures• Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture) |
|--|--|

Mechanism

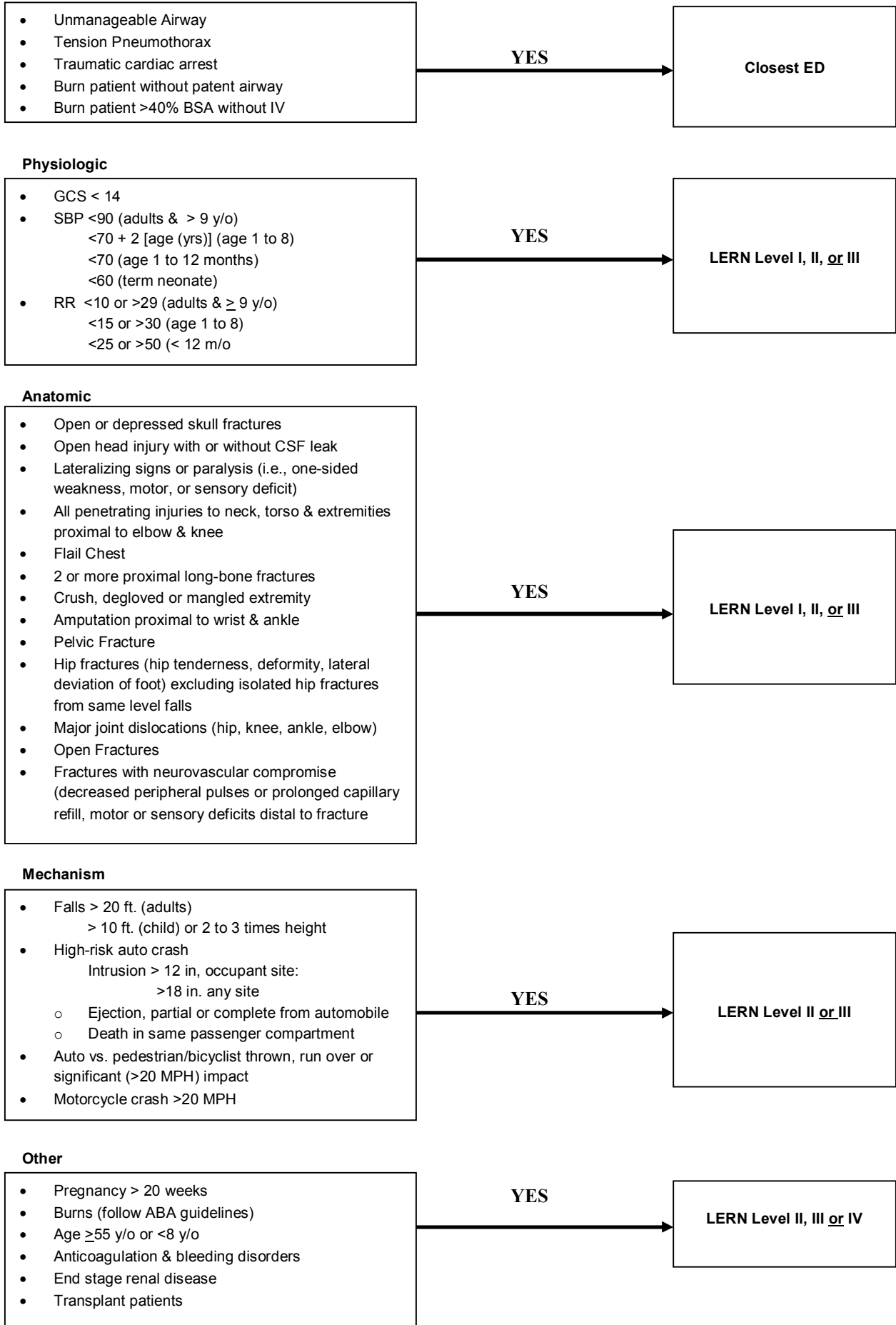
- | | |
|---|---|
| <ul style="list-style-type: none">• Falls >20 ft. adults
 >10 ft. (child) or 2 to 3 times height• Auto vs. pedestrian/bicyclist thrown, run over or significant (>20 MPH) impact• Motorcycle crash >20 MPH | <ul style="list-style-type: none">• High-risk auto crash• Intrusion >12 in, occupant site
 >18 in. any site• Ejection, partial or complete from automobile• Death in same passenger compartment |
|---|---|

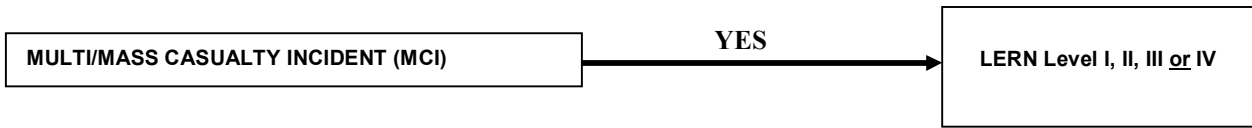
Other

- | | |
|---|--|
| <ul style="list-style-type: none">• Pregnancy >20 weeks• Burns (follow ABA guidelines)• Age ≥55 y/o or <8 y/o | <ul style="list-style-type: none">• Anticoagulation & bleeding disorders• End stage renal disease• Transplant patients |
|---|--|

MULTI / MASS CASUALTY INCIDENT (MCI)

LERN DESTINATION PROTOCOL: Trauma





1105#049
 Coletta Barrett, RN, MHA
 Chair

POTPOURRI
Department of Insurance
Office of Health

Annual HIPAA Assessment Rate Pursuant to Louisiana Revised Statutes 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the department of insurance to be .000267 percent.

1105#013
 James J. Donelon
 Commissioner

POTPOURRI
Department of Natural Resources
Office of Conservation
 Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C. L. Morris	Caddo Pine Island	S	Dr Eugene Newton	001	74876
C. L. Morris	Caddo Pine Island	S	C L Morris Fee	001	99682
C. L. Morris	Caddo Pine Island	S	Raines	003	990701
C. L. Morris	Caddo Pine Island	S	The Land Co Inc	002	52278
C. L. Morris	Caddo Pine Island	S	The Land Co Inc	001	52279
Bethlan Production Corporation	Monroe	M	J 2 Ranch	006	171638
Dupree and Dupree	Red River-Bull Bayou	S	Red River Unit	002	88016

Operator	Field	District	Well Name	Well Number	Serial Number
Texas Gulf Sulphur Co.	Bayou Choctaw	L	Wilberts Myrtle Grove PLTG Co	007	14372(29)
Progress Petroleum, Inc.	Denham Springs	L	Livingston LBR Corp D.	001	47850

1105#032
 James H. Welsh
 Commissioner

POTPOURRI
Department of Natural Resources
Office of Conservation
Environmental Division

Public Hearing—Application of Heckmann Water Resources Corporation (Docket No. ENV 2011-07)

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, June 22, 2011, at the Parish Police Jury Building, located at 101 Franklin Street, Police Jury Meeting Room, Mansfield, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Heckmann Water Resources Corporation, 210 S. Broadway, Suit 210, Tyler, Texas. The applicant requests approval from the Office of Conservation to construct and operate a commercial transfer station for temporary storage of exploration and production waste (E and P Waste) fluids located in Township 14 North, Range 14 West, Section 26 in De Soto Parish.

The application is available for inspection by contacting Mr. Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana. Copies of the application will be available for review at the De Soto Parish Police Jury or the Public Library in Mansfield, Louisiana no later than 30 days prior to the hearing date. Verbal information may be received by calling Mr. Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30

p.m., Wednesday, June 29, 2011, at the Baton Rouge Office.
Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket No. ENV 2011-07
Commercial Transfer Station Application
De Soto Parish

James H. Welsh
Commissioner

1105#061

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that five claims in the amount of \$21,324.10 were received for payment during the period April 1, 2011-April 30, 2011

There were 5 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2944.696	8927.274	St. Bernard
3011.753	8946.907	St. Tammany

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

1105#070

POTPOURRI

Department of Revenue
Policy Services Division

Advanced Notice of Proposed Rulemaking and Solicitation of Comments on Mandatory Electronic Filing of Corporate and Individual Income Tax Extensions and Extension Payments (LAC 61:III)

As part of the ongoing effort to maximize the operational efficiency and effectiveness of its Tax Collection Program, the Department of Revenue is hereby providing notice of its intention to proceed with rulemaking to implement mandatory electronic filing of certain extension requests and payments beginning with tax year 2011 with return and payment due dates in 2012.

The Department of Revenue, Office of Legal Affairs, Policy Services Division is requesting comments from industry, tax preparers and the public on the following enumerated issues regarding Mandatory Electronic Filing of Corporate and Individual Income Tax Extensions and Extension Payments:

- Implementation dates
- Implementation for fiscal year filers
- Phase-in of the mandatory requirements
- Income and payment thresholds
- Hardship and religious exceptions
- Opt-out provisions
- Telefile and IVR options
- Filing needs of preparers with multiple clients
- Filing needs of taxpayers with multiple accounts
- Signature documents and preparer authorization for electronic extensions and payments
- Penalties

Written comments addressing these issues are due no later than 4:30 p.m., July 15, 2011, and should be submitted to Leonore Heavey, Policy Services Division, Office of Legal Affairs, Louisiana Department of Revenue, P.O. Box 44098 Baton Rouge, LA 70804-4098 or by Fax to (225) 219-2759. Persons commenting should reference this document as "Electronic Extensions and Payments."

Cynthia Bridges
Secretary

1105#074

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