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Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Agricultural Finance Authority

2016 Louisiana Farm Recovery Grant Program
(LAC 7:III.101, and 501-509)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:266, the Louisiana Agricultural Finance Authority declares an emergency exists and adopts by emergency process these regulations for the 2016 Louisiana Farm Recovery Grant Program.

The state's agricultural industry was impacted by two major weather events in 2016. The first event occurred in March 2016 when many areas of North Louisiana received more than 30 inches of rain in a 24 - 48-hour time period. While the initial rain event created significant difficulties for agricultural producers, persistent rainfall that occurred for much of April and May caused additional difficulties and backwater flooding. The LSU AgCenter estimated agricultural damage at roughly \$90 million. The commodities included in this estimate were corn, soybeans, cotton, sorghum, rice, sweet potatoes, wheat, livestock, vegetables, and forage. Given the time of the year of the rains, much of the impact for most commodities was increased production costs associated with having to re-plant commodities. For livestock, the estimates included animal deaths as well as increased costs associated with relocating animals and reduced forage availability.

The second event occurred in August 2016 when many areas of South Louisiana received upwards of 34 inches of rain in a 24 - 48-hour time period. While the large rainfall totals were fairly limited to South Louisiana, persistent rainfall for much of August and September throughout the state delayed normal farming operations and added to the negative impact for agricultural producers. The LSU AgCenter estimated agricultural damage at roughly \$277 million. The commodities included in this estimate were rice, soybeans, corn, grain sorghum, cotton, sweet potatoes, sugarcane, livestock, fruits and vegetables, ornamental horticulture, hay and pasture, and honey. For most crop commodities, the agricultural damage estimates included reduced revenue from both quality and quantity impacts as well as increased production and harvest costs. For livestock, the estimates included animal deaths as well as increased costs associated with relocating animals and reduced forage availability. Finally, the estimate also included estimates of infrastructure damage to agricultural operations.

Money has become available to provide grants to producers impacted by the floods that have shown a commitment to remain in the agricultural industry and can prove losses based on the program's design. Funds can be used by eligible producers to assist with paying unmet expenses necessary for a 2017 crop, a need resulting from

storm-related uninsured and non-covered losses. These funds will allow producers to retain or hire employees and/or recover their farming operations. Delaying the distribution of this money until permanent rules and regulations can be promulgated will cause the money to be unavailable for the 2017 crop year. Failure to utilize this money quickly will disrupt the livelihood of agricultural producers and the related businesses that depend on them. Failure to timely utilize the money will substantially eliminate or reduce the amount of crops, livestock, and other agricultural products, planted, produced, harvested or processed in 2017; thereby further increasing the losses to agricultural producers and the economy of this state.

The losses caused by the two floods, the effect these losses have on the ability of agricultural producers to obtain financing, the severe shortage of capital and credit available for investment in agriculture, and the potential loss of more of this state's agricultural producers and agricultural revenues creates an imminent peril to the public health, safety, and welfare of the citizens of this state; thereby requiring the promulgation of these emergency rules and regulations.

This Emergency Rule becomes effective November 10, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part III. Agricultural Finance

Chapter 1. General Provisions

§101. Definitions

A. - C. ...

* * *

D. The following words and terms are defined for the purposes of the 2016 Louisiana Farm Recovery Grant Program.

Expected Gross Crop Revenue (for 2016)—the level of revenue that would have been expected to have been generated in 2016 under normal weather conditions and is calculated using the applicant's response to the number of acres harvested in 2016, a five-year parish average for crop yields and the estimated average market price in 2016.

Gross Crop Revenue (for 2016)—calculated by multiplying total acres harvested times the total average yield times an estimated average selling price. The estimated average selling price is calculated by dividing the applicant's share of crop revenue by the amount of the crop marketed by the applicant.

Increases in Either Harvest or Production Costs o—the costs of having to replant crops that were ruined due to high levels of rainfall and flooding; costs associated with harvesting crops under excessively wet field conditions causing reduced harvest speeds and efficiency; and costs associated with increased tillage and land preparation due to damage caused to land resulting from either having to harvest under excessively wet conditions or resulting from the impact of pounding rainfall and flooding.

Loss of Stored Hay—calculated by using the number of bales destroyed and then converting them into tons of hay assuming an average bale weight of 1,200 pounds. A market value for hay lost due to flooding is then calculated using the average 2016 market price as defined by the 2016 Louisiana Summary publication.

Lost or Dead Cattle—cattle that were lost or killed and calculated on a value per head by for the two classes of cattle using average 2016 market prices obtained from the 2016 Louisiana Summary publication and assuming an average weight for calves of 500 pounds and breeding animals of 1,200 pounds.

Net Estimated Losses—the amount of losses eligible for assistance under the 2016 Louisiana Farm Recovery Grant Program calculated by the difference between the total estimated losses and any assistance received by the applicant from other sources.

Producer—one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop and assumes the production and market risks associated with the agricultural production of those crops. A corporation or farmer's cooperative may be a "producer" if engaged in actual farming of the nature and extent there indicated.

Reductions in Grazing Availability—the economic loss associated with pastures that were flooded making grazing unavailable to cattle which is calculated using a hay equivalent methodology. The methodology assumes the economic loss is equal to the value of the amount of hay that would be needed to compensate for the lost grazing. The methodology assumes that each mature cow weighs 1,200 pounds and eats 2 percent of her body weight per day. With this information, the total amount of hay needed for the number of days grazing was unavailable is calculated. The value of that hay is then estimated using the average 2016 market price for hay as defined by the 2016 Louisiana Summary publication.

Total Estimated Losses (suffered by the farming operation)—a summation of the estimated economic losses associated with each crop produced and any cattle related losses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Louisiana Agricultural Finance Authority, LR 10:866 (November 1984); amended by the Louisiana Agricultural Finance Authority, LR 36:464 (March 2010), LR 44:

Chapter 5. 2016 Louisiana Farm Recovery Grant Program

§501. 2016 Louisiana Farm Recovery Grant Program; Establishment; Purpose; Limitations

A. The 2016 Louisiana Farm Recovery Grant Program is hereby established.

B. The 2016 Louisiana Farm Recovery Grant Program provides a 100 percent grant to agricultural producers for working capital expenses related to the 2017 planting year for the purpose of aiding in the recovery from the 2016 floods.

C. The limits on the grants from the 2016 Louisiana Farm Recovery Grant Program are as follows:

1. agricultural producers may receive a maximum grant of \$100,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§503. Eligibility of Applicant

A. An agricultural producer experiencing a 2016 flood related loss shall be eligible to receive money from the 2016 Louisiana Farm Recovery Grant Program upon meeting all of the following requirements:

1. The farm upon which a loss occurred must be located in one of the following parishes: Acadia, Allen, Ascension, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, Lafayette, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Point Coupee, Rapides, Red River, Richland, Sabine, St. Helena, St. James, St. Landry, St. Martin, St. Tammany, Tangipahoa, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana or Winn.

2. Active agricultural operations must have been ongoing before March 1, 2016 and continue to be ongoing in 2017.

3. The applicant must have annual gross farm revenue of \$25,000 in 2014, 2015 or 2016.

4. The applicant must have suffered a minimum storm related loss of \$10,000 as determined by the crop loss calculator.

5. The applicant must have grown one of the following crops in 2016: cattle, corn, cotton, crawfish, grain sorghum, hay, rice, soybeans, strawberries, sugarcane, sweet potatoes or wheat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§505. Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that fairly puts agricultural producers on notice of the 2016 Louisiana Farm Recovery Grant Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Each applicant for a grant shall submit all of the following documents to LAFA:

1. the completed application form signed by the agricultural producer, if a sole proprietorship. If the agricultural producer is not a sole proprietorship then the application form must be signed by all owners, unless an applicant has more than ten owners;

2. proof of identity of the signer of the application. A government issued photo identification must be presented;

3. proof of address of the farm. One or more of the following may be used as proof of address: A copy of utility bill, Louisiana tax return from the previous year, lease agreement, map, title to land, or a USDA Farm Service Administration (FSA) certification;

4. proof of ownership of the farm. Tax returns with appropriate schedules must be presented;

5. proof of national objective. One or more of the following may be used as proof of employees: Federal form

941, LMI Form, Louisiana unemployment tax records or internal payroll register;

6. proof of revenue. Tax returns with appropriate schedules must be presented;

7. proof of crop loss. A completed crop loss calculator must be presented;

8. proof of harvesting an eligible crop in 2016. Tax returns with appropriate schedules must be presented in calendar year 2017;

9. proof of planting or harvesting an eligible crop in 2017. Paid receipts, invoices, copies of checks or other evidence must be presented for expenses in calendar year 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§507. Disbursement of Funds

A. After the LAFA staff has approved an application, the proceeds of the grant shall be disbursed by LAFA's staff upon the signing of the grant documents by the applicant and LDAF's Director of Grant Recovery Programs.

B. If the total amount of proceeds to be disbursed under the 2016 Louisiana Farm Recovery Grant Program exceeds the amount of available money then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§509. Use of Grant Proceeds

A. Grant proceeds may be used to pay current year working capital expenses that are related to the preparation, planting, management and harvesting the current year crop including, but limited to feed, bait, seed, fertilizer, fuel, chemicals, herbicides, crawfish traps, office supplies, insurance, utilities, labor/payroll, veterinarian services and supplies, custom harvester, custom aerial applicator, and written land leases for crawfish producers.

B. Grant proceeds may not be used for any of the following:

1. acquisition of buildings or land;
2. new construction or reconstruction;
3. repayment or refinancing loans;
4. payments of tax arrearages, government fines or penalties;
5. political or religious activities;
6. buying out any stockholder or equity holder in a business;
7. buying out or reimbursing any family member;
8. investing in instruments or investments for the sole purpose of a return on investment;
9. a loss or expense for which insurance benefits has been or will be paid or financial assistance that has been or will be provided from federal, state or any other source;
10. purchasing or repairing of equipment;
11. placing new land into production.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

Mike Strain DVM
Commissioner

1711#073

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office Agricultural and Environmental Sciences and Office of Forestry

Horticulture and Quarantine Programs
Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the state entomologist set forth in R.S. 3:1652, and in order to avoid a lapse in coverage until a permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine in Bienville, Jackson, Morehouse and Ouachita Parishes for the following pest: emerald ash borer ("EAB"), *Agilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in Bienville, Jackson, Morehouse and Ouachita Parishes and may be prevented, controlled, or eradicated by quarantine.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens.

The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law effective October 18, 2017, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter F. Emerald Ash Borer Quarantine

§167. Emerald Ash Borer Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect emerald ash borer ("EAB"), *Agrilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. the entire parishes of Bienville, Bossier, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster;

2. a declaration of quarantine for EAB covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Subsection shall be moved out of any area of this state that is listed in this Subsection as a quarantined area for EAB, except as provided in this Subsection.

D. The following articles are hosts of EAB and are deemed to be regulated articles for purposes of this Subsection:

1. the emerald ash borer in all of its life stages; firewood of all hardwood (non-coniferous) species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*;

2. any other article, product, or means of conveyance not listed in this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions.

1. The regulated articles being moved are accompanied by a certificate or limited permit issued by LDAF and attached in accordance with the EAB federal requirements.

2. The regulated articles being moved are not accompanied by a certificate or limited permit but are being moved by the United States Department of Agriculture for experimental or scientific purposes.

3. The regulated articles being moved are not accompanied by a certificate or limited permit but originated outside of any EAB quarantined area and are moved interstate through the quarantined area under the following conditions:

a. the points of origin and destination are indicated on a waybill accompanying the regulated article; and

b. the regulated article, if moved through the quarantined area, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

c. the regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

d. the article has not been combined or commingled with other articles so as to lose its individual identity.

F. Persons or businesses engaged in growing, handling, or moving regulated articles intrastate may enter into a compliance agreement with LDAF if such persons or businesses review with an LDAF inspector each provision of the compliance agreement. Any person or business who enters into a compliance agreement with LDAF must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

1. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to LDAF within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants LDAF to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by LDAF. As soon as practicable, LDAF will grant or deny the appeal, in writing, stating the reasons for the decision.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652 and 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245

(February 2017), amended by the Department of Agriculture and Forestry, Office Agricultural and Environmental Sciences and Office of Forestry, LR 43:

Mike Strain DVM
Commissioner

1711#001

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System—One Year
Waiver for Severe Impact Schools and Districts
(LAC 28:XI.4503)

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 (BESE) approved for advertisement to revise *Bulletin 111—The Louisiana School, District, and State Accountability System*: §4503. One Year Waiver for “Severe Impact” Schools and Districts. This Declaration of Emergency, effective October 18, 2017, is for a period of 120 days from adoption, or until finally adopted as Rule. The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools that sustained significant damage as a result of federally-declared disaster DR-4277, Louisiana Severe Storms and Flooding.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waiver for "Severe Impact" Schools and Districts

[Formerly LAC 28:LXXXIII.4503]

A. - A.2. ...

3. for the 2016-2017 school year school performance scores and letter grades, any school which sustained significant damage as a result of federally declared disaster DR-4277 Louisiana Severe Storms and Flooding, such that schools temporarily relocated to another school campus or facility, or received a displaced school or entire grade levels from another school at its campus as a result of such disaster, the LDE shall use for school accountability purposes the higher of the 2016-2017 or 2015-2016 school performance score. This policy shall also apply to all schools within the East Baton Rouge Parish System. The state superintendent, with consent of the president of the board, may provide for the same in cases of extraordinary and abnormal displacement of teachers and students and hardship due to such disaster, if such displacement directly and indisputably contributed to abnormal changes in school performance scores and assessment results, based on analysis conducted by the LDE.

B. - G.2. ...

a. will not enter or advance in comprehensive or urgent intervention labels or academically unacceptable status as a result of accountability labels based on data collected during the year of the disaster; but

b. schools can exit comprehensive or urgent intervention labels based on data collected during the year of the disaster.

H. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:636 (April 2007), LR 36:1994 (September 2010), LR 37:2120 (July 2011), LR 44:

Gary L. Jones
BESE President

1711#005

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.905)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the process of obtaining a pharmacy technician certificate by delaying the implementation of the requirement to complete a nationally-accredited pharmacy technician training program as one of the qualifications to obtain the credential.

Prior to June 2013, the Rule required the pharmacy technician candidate to complete a training program that was approved by the board. In response to stakeholder input requesting flexibility in how those programs were to be established, the board permitted programs to be established at individual pharmacies in addition to universities, community and technical colleges, as well as proprietary schools. Over the course of approximately 10 years, the board tracked the state's pass rate on the national certification program and observed a steady decrease. The board determined that workplace training alone was not sufficient and, in June 2013 instituted a change, to begin in January 2016, that would require the training program to be nationally accredited. The three-year delay was intended to increase the number of such nationally-accredited programs in the state.

During their meeting in November 2015, the board entertained a request from some chain pharmacies to further delay the implementation of the accreditation requirement until 2020, citing their concerns with some of the accreditation standards. The board took note of the increased number of accredited programs in the state, from one in 2013 to over a dozen in 2015. The board also took note of the continuing decrease in the state pass rate on the national certification examination, with a 45 percent pass rate in 2015. The board also received input the requirement should

be transferred from those persons submitting applications for the technician certificate to those persons submitting applications for the technician candidate registration, to eliminate the difficulty for persons who start under the previous Rule and attempt to finish under the new Rule. The board agreed to a one-year delay in the accreditation requirement, and since there was not sufficient time to promulgate a change in the Rule before the current January 1, 2016 implementation date, the board determined that an Emergency Rule was necessary. During the one-year delay, the board planned to promulgate the additional change to transfer the requirement for completion of an accredited program as a qualification for the pharmacy technician certificate to require enrollment in an accredited program as a qualification for the pharmacy technician candidate registration.

The board has determined that failure to implement the Emergency Rule will cause interruptions in the licensure process for pharmacy technicians, potentially causing a decrease in the number of pharmacy technicians in the available workforce. The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original Declaration of Emergency was effective November 30, 2015. Although the board is working on the changes, they need more time; therefore, they have directed the revision of the implementation date from 2017 to 2018. Although the board has almost completed the rulemaking process, the previously-issued Emergency Rule is scheduled to expire before the conclusion of the process. Therefore, the board has directed the extension of the revised Emergency Rule; it is effective November 6, 2017 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§905. Pharmacy Technician Certificate

A. - A.3.a. ...

b. For those applicants submitting applications on or after January 1, 2018, the applicant shall demonstrate successful completion of a nationally-accredited and board-approved pharmacy technician training program, as evidenced by a valid and legible copy of the appropriate credential from that program.

A.4 - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 44:

Malcolm J. Broussard
Executive Director

1711#021

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Abortion Facilities
Licensing Standards
(LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. 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 and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective December 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48
PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an

abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

I.c. - 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or

a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b. ...

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Rebekah E. Gee MD, MPH
Secretary

1711#055

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Facility Need Review
Behavioral Health Services Providers
(LAC 48:I.Chapter 125)

The Department of Health, Bureau of Health Services Financing rescinds the October 16, 2017 Emergency Rule governing the Facility Need Review (FNR) Program as authorized by R.S. 36:254 and R.S. 40:2116. 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, Bureau of Health Services Financing amended the provisions governing the FNR Program in order to: 1) adopt provisions for FNR approval for behavioral health services (BHS) providers that apply for licensure to provide psychosocial rehabilitation and/or community psychiatric support and treatment services; and 2) provide grandfather provisions for BHS providers who are licensed as of October 16, 2017, or have submitted an application for licensure prior to October 16, 2017 (*Louisiana Register*, Volume 43, Number 10).

The department has now determined that it is necessary to rescind the provisions of the October 16, 2017 Emergency Rule which amended the provisions governing facility need review approval for behavioral health services providers. Effective immediately, upon adoption of this Emergency Rule, the department shall return to the provisions in place governing the Facility Need Review Program in LAC 48, Chapter 125. This action is being promulgated in order to promote the health and welfare of Medicaid recipients in Louisiana by ensuring continued access to behavioral health services.

Effective November 2, 2017, the Department of Health, Bureau of Health Services Financing rescinds the October 16, 2017 Emergency Rule governing facility need review approval for behavioral health services providers which was published in the October 20, 2017 edition of the *Louisiana Register*.

Rebekah E. Gee MD, MPH
Secretary

1711#011

DECLARATION OF EMERGENCY

Department of Treasury Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.105, 701, and 709)

The Louisiana Deferred Compensation Board has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.105, 701, and 709 regarding distributions for

unforeseen emergencies. This Emergency Rule is necessary to allow plan participants as defined by LAC 32:VII.101 who qualify for the relief provided by IRS Announcement 2017-11 to take a distribution from the plan.

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: On August 25, 2017, the President of the United States of America issued a Major Disaster Declaration for designated Counties in Texas by issuing FEMA DR-4332. Additionally, the Governor of Texas issued emergency declarations for counties affected by Hurricane Harvey on August 23, 2017, August 26, 2017, August 27, 2017, August 28, 2017, and September 14, 2017. On September 14, 2017, September 20, 2017, and October 20, 2017 the Governor of Texas extended emergency declarations for specified counties affected by Hurricane Harvey. On August 24, 2017, Governor John Bel Edwards issued a state of emergency for the entire State of Louisiana due to Hurricane Harvey. (Proclamation No. 104 JBE 2017) On August 28, 2017, the President of the United States of America issued an Emergency Declaration for designated Parishes in Louisiana by issuing FEMA EM-3382. The damage caused by the Hurricane Harvey/Tropical Storm Harvey event has resulted in the destruction of homes, closing of businesses in affected areas, loss of personal belongings, and loss of employment by many plan participants and/or their families. This weather event has produced an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan. In order to provide relief to taxpayers who have been adversely affected by the Hurricane Harvey/Tropical Storm Harvey event, the IRS issued Announcement 2017-11 to provide relief from certain verification procedures that may be required under retirement plans with respect to hardship distributions. In order for the Louisiana Deferred Compensation Plan to provide the relief to qualified plan participants the following Emergency Rule is necessary.

This Emergency Rule was adopted on October 17, 2017 and shall be effective on October 17, 2017. This Emergency Rule shall remain effective for the maximum period allowed under the Act or until the expiration of the relief provided in IRS 2017-11 or any extension thereof, whichever occurs first, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§105. Duties of Commission

A. - A.7. ...

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee:

a. a participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency. However, if a participant qualifies for a distribution resulting

from the Hurricane Harvey/Tropical Storm Harvey weather event, as set forth in IRS Announcement 2017-11, or any extension thereof, the commission may rely upon the representations from the participant as to the need for and amount of the distribution unless it has actual knowledge to the contrary.

b. if an application for a withdrawal based on unforeseeable emergency is approved, and the application does not qualify for the relief set forth in IRS Announcement 2017-11 or any extension thereof, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. - iii. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:1495 (June 2002), LR 44:

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.2. ...

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 32:VII.709.A or meets the qualifications for relief set forth in IRS Announcement 2017-11, or any extension thereof; or

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 44:

§709. Unforeseeable Emergency

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, or if a participant meets the qualifications for relief set forth in IRS Announcement 2017-11, or any extension thereof; the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457 or IRS Announcement 2017-11, or any extension thereof.

2. Unless a participant meets the qualifications for relief set forth in IRS Announcement 2017-11, or any extension thereof, an unforeseeable emergency distribution shall not be made if such hardship may be relieved:

2.a. - 3.b. ...

c. If a participant meets the qualifications for relief set forth in IRS Announcement 2017-11, or any extension thereof, the commission may rely upon the representation of the participant as to the need for and amount of a financial hardship distribution unless the commission or plan administrator has actual knowledge to the contrary.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 6 months from the date of payment (or such other period as mandated in treasury regulations) unless the participant's

distribution is made pursuant to the guidelines set forth in IRS Announcement 2017-11, or any extension thereof. If a participant's financial hardship distribution is made pursuant to the guidelines set forth in IRS Announcement 2017-11, or any extension thereof, then the suspension of deferrals shall be in the discretion of the participant.

B. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 37:1621 (June 2011), LR 44:

Emery Bares
Chairman

1711#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2017-18 King Mackerel Commercial Season Closure

In accordance with the emergency 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 commission action on January 5, 2017, to close the 2017-18 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

Effective 12 noon, October 16, 2017, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2018. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fisherman. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in federal waters of the Gulf of Mexico is closed and will remain closed through June 30, 2018.

Jack Montoucet
Secretary

1711#004

Rules

RULE

Department of Economic Development Office of the Secretary

Direct Bonding Assistance
(LAC 19:II.903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules for the Small Business Bonding Program to allow certain applicants up to an additional three years of access to the program.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging

Business Development Program

Chapter 19. Small Business Bonding Program

§903. Direct Bonding Assistance

A. Direct Bonding Assistance—Eligibility

1. All certified active small and emerging construction businesses, and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project.

2. Beginning July 1, 2017, firms with previously approved SEBD certification status expiring after July 1, 2017 but prior to July 1, 2020, may be granted continued eligibility for the Direct Bonding Assistance Program for a period of up to three years, but no later than July 1, 2020.

3. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004), LR 36:52 (January 2010), amended by the Department of Economic Development, Office of the Secretary, LR 43:2102 (November 2017).

Mandi D. Mitchell
Assistant Secretary

1711#033

RULE

Department of Economic Development Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program
(LAC 61:I.1605 and 1607)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the Rules for the

Motion Picture Production Tax Credit Program (R.S. 47:6007 et seq.) to effect a reservation and allocation system under a new tax credit issuance cap provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Motion Picture Production Tax Credit Program

§1605. Definitions

A. - B. ...

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), LR 43:2102 (November 2017).

§1607. Certification Procedures

A. - A.1.c.v. ...

2. All applicants shall participate in a career based learning and training program approved by the office. To meet this requirement, at the time of application, applicants may choose a method of participation from the list below:

a. provide a minimum of 3 paid internship positions provided to students enrolled in an accredited high school, community college, university or qualified community based program, for a minimum of 75 hours per student and a total of 225 hours; or

b. a minimum of 8 hours of classroom workshop provided to students enrolled in an accredited high school, community college, university or qualified community based program; or

c. a minimum of 8 hours of studio employment and professional skills tour provided to students enrolled in high school, community college, university or qualified community based program; or

d. a minimum of 8 hours of continuing education for educators or faculty to observe the set operations, post production and other specialized departments;

e. financial contribution or donation to a specific local educational agency or higher education institution specializing in arts, media and entertainment career oriented program. Financial contributions calculated at 0.25 percent of the estimated tax credit reservation; or

f. other method of participation approved by the office.

B. - B.3. ...

C. Initial Certification

1. Application Review Process, Provisional Allocation and Reservation of Tax Credits

a. Project-Based Production Tax Credit—For Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue an initial certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017

i. Beginning July 1, 2017 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month (“monthly initial certification pool”) and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial. The initial certification letter will provisionally allocate tax credits based upon expected the cost report submission date and availability of tax credits in any given year.

iii. Tax credits provisionally allocated in the initial certification letter shall be reserved until thirty days following the identified start date of principal photography.

iv. The production company shall provide written evidence that principal photography has begun by the identified date by submitting documents such as call sheets, site visit reports from local film commission staff, or as otherwise approved by the office. Upon receipt, the office will issue an email confirmation, acknowledging the continued tax credit reservation and effectivity of the initial certification letter.

v. If the production company is unable to begin principal photography by the identified date, it shall provide written notice to the office and provide written reasons for the delay and the anticipated new start date of principal photography. The office may, in its sole discretion, grant a one-time extension to such production company. Unless otherwise approved by the secretary for good cause shown, the extension shall not exceed 30 days.

vi. If the production company fails to provide appropriate written evidence that principal photography has begun by identified date or other approved date, the office will send production company a notice of disqualification and;

(a). the amount of credits reserved shall be added back into the available amount for that fiscal year, or rolled forward into the then current year, as applicable;

(b). the initial certification letter issued shall be deemed void, and the applicant shall be disqualified from

earning any tax credits on the applicable state certified production;

(c). the applicant shall forfeit all application fees;

(d). any unused CPA advance deposit fees shall be refunded within 30 days;

vii. a production company so disqualified may re-submit a new application for the same project, which will be evaluated by the office as a new state certified production, with a new application date and subject to all applicable fee and filing requirements.

2. ...

3. Cap Management—Phase 1- Initial Certification—Tentative Reservation

a. The reservation of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met:

i. QEC;

ii. LA screenplay;

iii. independent film;

iv. general; or

iv. total cap.

b. Qualifying LA screenplay or independent film projects shall be allocated credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be reserved from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of unreserved credits may be available for general allocation by the office, in addition to any residual general cap.

d. If the QEC cap is not met in any fiscal year, any residual unreserved credits shall carry forward for use by QEC’s in subsequent years.

e. On the day that the total or general cap is reached, the credits remaining for allocation shall be reserved on a prorated basis amongst the monthly initial certification submission pool.

f. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

4. Duration of Effect—for Applications Submitted prior to July 1, 2017.

a. - b. ...

5. Duration of Effect—for Applications Submitted on or after July 1, 2017.

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status and the reporting requirement for start date of principal photography.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of twelve months prior to the date of application and twenty-four months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content (“SEC’s”), with estimated expenditures of at least \$10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying

expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

ii. when determining the amount and appropriate allocation and reservation of credits for SEC's, the office shall review all pertinent information, including but not limited to; whether the project is a pilot, TV series from a pilot formerly shot in Louisiana, a recurring TV series or a relocating TV series.

iii. unless otherwise approved by the office and the secretary, SEC tax credits will be allocated from the general cap, and initially reserved for two seasons. SEC applicants shall periodically provide updates to the office, and the initial certification letter may be subsequently revised to allow for additional allocations and reservations of credits for seasons three through five, if applicable.

D. Final Certification; Audit Requirements

1. - 2.b. ...

3. Final Allocation and Issuance of Tax Credits

a. Project-Based Production Credit—for Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017

i. Beginning July 1, 2017 and thereafter, the office will accept and review requests for final certification on a monthly basis. Applicants shall have completed all required steps for certification of credits, and requests shall be evidenced by submission of a signed attestation form to the office. All requests received by the 15th of the month will be treated as received on the last business day of the month, ("monthly final certification submission pool") and processed accordingly.

ii. After review and determination of qualification, the office and the secretary shall issue a final certification letter, in accordance with the provisional allocations and amounts set forth in the initial certification letter, or a written denial.

iii. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and may be available for issuance by the office.

iv. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total indicated in the initial certification letter, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

4. Cap Management—Phase 2- Final Certification—Tax Credit Issuance

a. The issuance of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met; QEC, LA screenplay, independent film, general or total cap.

b. Qualifying LA screenplay or independent film projects shall be issued credits first from the available LA screenplay or independent film caps. On the day that the LA

screenplay or independent film caps are met, credits shall be issued from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of credits may be available for issuance by the office, in addition to any residual general cap.

d. If the total cap has not been met by May 30 of any year, the office shall review any projects with excess expenditures for which credits have neither been certified nor denied, and may issue supplemental tax credits from any remaining general cap. Such projects shall all be treated as received on June 15th and processed accordingly.

e. If the QEC cap is not met in any fiscal year, any residual credits shall carry forward for use by QEC's in subsequent years.

f. On the day that the total or general cap is reached, the credits remaining for allocation shall be issued on a prorate basis amongst the monthly final certification submission pool.

g. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

E. Appeal Process. In the event that an application for initial or final certification is denied:

1. - 2. ...

3. initial certification letters that were issued to an applicant, but subsequently deemed void by the office, following a notice of disqualification for failure to begin principal photography by an agreed upon identified date or other approved date, shall not be subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), LR 43:2102 (November 2017).

Anne G. Villa
Undersecretary

1711#032

RULE

Board of Elementary and Secondary Education

Bulletin 102—Louisiana Physical Education
Content Standards (LAC 28:LIII.Chapters 1-15)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has amended *Bulletin 102—Louisiana Physical Education Content Standards*: §101, Introduction; §103, Louisiana Physical Education Standards to Promote Physical Literacy; §105, Definitions/Descriptions; §107, Louisiana Physical Education Standards; §301, Introduction; §303, Standard 1; §305, Standard 2; §307, Standard 3; §309, Standard 4; §311, Standard 5; §501, Introduction; §503,

Standard 1; §505, Standard 2; §507, Standard 3; §509, Standard 4; §511, Standard 5; §513, Standard 7; §701, Introduction; §703, Standard 1; §705, Standard 2; §707, Standard 3; §709, Standard 4; §711, Standard 5; §713, Standard 7; §901, Introduction; §903, Standard 1; §905, Standard 2; §907, Standard 3; §909, Standard 4; §911, Standard 5; §913, Standard 7; §1101, Definitions; §1103, Standard 2; §1105, Standard 3; §1107, Standard 4; §1109, Standard 5; §1111, Standard 6; § 1113, Standard 7; §1501, Kindergarten Grade-Level Expectations; §1503, Grade 1 Grade-Level Expectations; §1505, Grade 2 Grade-Level Expectations; §1507, Grade 3 Grade-Level Expectations; §1509, Grade 4 Grade-Level Expectations; §1511, Grade 5 Grade-Level Expectations; § 1513, Grade 6 Grade-Level Expectations; §1515, Grade 7 Grade-Level Expectations; §1517, Grade 8 Grade-Level Expectations; and §1519, High School Grade-Level Expectations.

Louisiana state law RS 17:24.4 requires BESE to adopt academic content standards, which are defined in the law as statements that define what a student should know or be able to accomplish at the end of a specific time period, grade level or at the completion of a course. BESE Bulletin 741, §2301 states, “The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning.” Bulletin 102 contains the Louisiana Physical Education standards and was last revised in December 2009. In response to requests from physical education educators and stakeholders, the LDE assembled a work group to review and make recommendations for updating the current Louisiana Physical Education standards. The work group was comprised of practitioners and stakeholders with expertise in physical education including elementary, middle and high school physical education teachers, higher education physical education professionals, and representatives from the Louisiana Association of Health Physical Education, Recreation and Dance (LAHPERD) the Louisiana Department of Health, Alliance for a Healthier Generation, and Governor’s Council on Physical Fitness. The proposed standards maintain current focus on motor skills, movement patterns, application of movement concepts, health-enhancing physical activity, responsible behavior and enjoyment of physical activity for health.

Title 28 EDUCATION

Part LIII. Bulletin 102—Louisiana Physical Education Content Standards

Chapter 1. General Provisions

§101. Introduction

A. The Louisiana K-12 physical education content standards were developed to provide physical education teachers, administrators and parents a guide to understanding and interpreting physical education for the future.

B. The goal of physical education is to develop physically literate individuals who have the knowledge, skills, and confidence to enjoy a lifetime of healthful physical activity.

C. To pursue a lifetime of healthful physical activity, a physically literate individual:

1. has learned the skills necessary to participate in a variety of physical activities;

2. knows the implications and the benefits of involvement in various types of physical activities;
3. participates regularly in physical activity;
4. is physically fit; and
5. values physical activity and its contributions to a healthful lifestyle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2105 (November 2017).

§103. Louisiana Physical Education Standards to Promote Physical Literacy

A. Standard 1. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to provide students with a broad base of skills and movement patterns that will enhance the ability to be physically active in a variety of ways and continue a lifelong pattern of physical activity. Competency means that the students possess the ability and knowledge at an emerging or higher level. The variety of skill comes from three basic categories of movement skills, i.e. locomotor (moving the body from one location to another), manipulative (using a variety of objects in conjunction with the hands, feet, and other body parts), and non-locomotor/stability (movements of the body and its parts in a relatively stable position).

B. Standard 2. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. This standard addresses the need for students to understand related cognitive information pertinent to movement skills in physical education. The teaching of the information should be appropriate to the grade level being taught and is derived from the movement sciences (motor learning and development, sport psychology and sociology, biomechanics and exercise physiology). A movement vocabulary should be developed for each movement area taught. In addition, basic concepts about absorbing and exerting force, balance, managing stress related to changes in the body as one grows, stress related to expectation of others and self. Strategies for success should progress from simple to complex and be developmentally appropriate. Application of information should be related to real world skills and games that students are taught.

C. Standard 3. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent. The intent of this standard is to provide the knowledge and methods for achieving and maintaining a health enhancing level of physical fitness. Students should be taught about fitness and its importance throughout the lifespan. Fitness can be derived from participating in a variety of activities and is important to success in activities as well as individual wellness. Concepts, principles, and strategies should also be incorporated as part of health-related fitness [e.g. frequency of activity, intensity of activity, time spent in activity, and type of activity (FITT)]. Each student will have different interests and abilities that dictate the need for teachers to individualize activities, i.e. various levels of intensity and ways to enhance fitness.

D. Standard 4. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. Responsible behavior addresses the need for both self-motivated behavior as well as adherence to social expectations in movement settings. Students should understand that safe participation and respect for others is an important aspect of this standard. Other components of standard 4 are appreciation for individual and cultural diversity, etiquette, being proactive rather than reactive, adhering to rules, and giving one's best effort.

E. Standard 5. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. The intent of this standard is to help students learn more about personal values and the importance of daily physical activity. Students who do not recognize the value of being physically active are less likely to pursue physical activity opportunities. The activities taught in physical education classes can facilitate student enjoyment of being physically active, openness to new activity options that are challenging, learning of positive social skills, and recognition of physical activity as an opportunity for self-expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2105 (November 2017).

§105. Definitions/Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2106 (November 2017).

§107. Louisiana Physical Education Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2106 (November 2017).

Chapter 3. Grades K-2 Cluster Level

§301. Introduction

A. The Louisiana K-2 physical education standards were developed to provide physical education teachers, administrators and parents a guide to understanding and interpreting physical education for the future. The primary focus for this age group is the learning and acquisition of locomotor, non-locomotor, and manipulative skills. These are the foundational skills for all movement patterns that gradually become more complex as movement becomes more specific. This grade cluster is also charged with introducing health enhancing concepts (eating well, water consumption, sleep, and physical activity) and the accompanying conceptual movement vocabulary (personal space/general space, forward/backward, twist/turn, hard/soft). These tasks can be accomplished by using a variety of balls (yarn, beach, playground, nerf) and other age appropriate manipulative equipment. Students should be encouraged to accept responsibility for personal level of fitness by introductory goal setting, identifying physical

activity opportunities at home or in their neighborhood and be open to trying new activities and challenges.

B. Standards provide criteria for all students, and other stakeholders that represent what students should know and be able to do.

C. Physical education classes support students in developing the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

D. Reading the Standards. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies the grade level to which the statement pertains. Directly following the hyphen, the number listed states to which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). The following is a guide to interpret each coded outcome:

1. example: [1.K-2.4] Kick a stationary ball:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard.);

b. K= the number or letter listed provides the level targeted; in this case, kindergarten;

c. 2= the number or letter listed provides the component being targeted within the standard; in this case, the second component related to the standard;

d. 4 = this number listed provides the expectation within that component; in this case, the fourth expectation a student should be able to complete;

2. the following terms are used through the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2106 (November 2017).

§303. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to provide students with a broad base of skills and movement patterns that will enhance the ability to be physically active in a variety of ways and enable a student to continue a lifelong pattern of physical activity. The focus is on the locomotor, non-locomotor and manipulative skills. By the end of the second grade, students should exhibit mature patterns in locomotor skills, demonstrate the knowledge of different non-locomotor skills, and throw underhand and overhand using a mature pattern.

- B. Grade Level Expectations for Grades K-2
1. Locomotor and Non-Locomotor
 - a. Kindergarten
 - i. [1.K-1.1] Demonstrate walk, run, and slide locomotor skills.
 - ii. [1.K-1.2] Explore locomotor skills of jump, gallop, skip, hop, and leap in a closed environment.
 - iii. [1.K-1.3] Use non-locomotor skills in closed and open environment.
 - iv. [1.K-1.4] Balance using a variety of body parts and body shapes.
 - v. [1.K-1.5] Transfer weight by rocking and rolling.
 - vi. [1.K-1.6] Move in time with a changing beat.
 - b. First Grade
 - i. [1.1-1.1] Demonstrate gallop and hop locomotor skills.
 - ii. [1.1-1.2] Perform locomotor skills while changing pathway, direction, and/or speed.
 - iii. [1.1-1.3] Use non-locomotor skills in closed and open environments and in response to verbal and nonverbal stimuli.
 - iv. [1.1-1.4] Balance in a variety of ways using equipment and/or apparatus.
 - v. [1.1-1.5] Perform a variety of different rocking and rolling skills.
 - vi. [1.1-1.6] Move to a rhythmic beat or pattern.
 - c. Second Grade
 - i. [1.2-1.1] Demonstrate all fundamental locomotor skills.
 - ii. [1.2-1.2] Perform combinations of locomotor, non-locomotor, weight transfer, and static and dynamic balance skills.
 - iii. [1.2-1.3] Perform combinations of non-locomotor and locomotor skills in a movement pattern.
 - iv. [1.2-1.4] Demonstrate static and balance skills as part of a movement pattern.
 - v. [1.2-1.5] Perform combinations of rolling and balance skills.
 - vi. [1.2-1.6] Perform rhythmic dance steps and sequences.
 2. Manipulative
 - a. Kindergarten
 - i. [1.K-2.1] Throw objects in a variety of ways to oneself.
 - ii. [1.K-2.2] Catch a bounced ball.
 - iii. [1.K-2.3] Use different body parts to strike a lightweight object and keep it in the air.
 - iv. [1.K-2.4] Kick a stationary ball.
 - v. [1.K-2.5] Dribble objects with the hand in a closed or open environment.
 - vi. [1.K-2.6] Roll a ball underhand.
 - b. First Grade
 - i. [1.1-2.1] Throw using variations in time/force.
 - ii. [1.1-2.2] Catch a self-tossed object with hands or an implement.
 - iii. [1.1-2.3] Strike an object using different body parts.
 - iv. [1.1-2.4] Kick a ball for force using a backswing with the kicking leg and non-kicking leg stepping next to the ball with force.

- v. [1.1-2.5] Dribble an object with hands and feet in a closed environment through personal and general space.
 - vi. [1.1-2.6] Roll a ball to a specified target.
- c. Second Grade
 - i. [1.2-2.1] Throw overhand a variety of objects. Demonstrate a side orientation with critical elements.
 - ii. [1.2-2.2] Catch objects coming from different directions and heights.
 - iii. [1.2-2.3] Strike a variety of objects with the hand or an implement with purpose to control force/direction.
 - iv. [1.2-2.4] Kick a rolled or moving ball with the top of shoes.
 - v. [1.2-2.5] Dribble a ball with hands and feet using variations of controlled speed, direction, and pathway, and in relationship to objects.
 - vi. [1.2-2.6] Roll a ball or object to a moving target or partner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2106 (November 2017).

§305. Standard 2

A. Standard 2. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is to ensure that the student is able to apply the knowledge of concepts, principles, strategies, and tactics related to movement and performance. Students should be able to analyze movement situations and apply movement concepts (speed, direction, force, extensions) in small sided practice tasks and game environments, dance, and gymnastics. Students should also demonstrate competency and understanding of basic offensive and defensive strategies for small-sided and net/wall games.

B. Grade Level Expectations K-2

1. Movement Concepts
 - a. Kindergarten
 - i. [2.K-1.1] Establish a movement vocabulary through exploration of body, space, effort, flow, and relationships.
 - ii. [2.K-1.2] Recall pathways, direction, levels, and relationships.
 - iii. [2.K-1.3] Distinguish between different degrees of effort.
 - iv. [2.K-1.4] Identify boundaries for personal and general space.
 - b. First Grade
 - i. [2.1-1.1] Describe movement vocabulary terms in body, space, effort, flow, and relationships.
 - ii. [2.1-1.2] Demonstrate an understanding of relationships in a variety of physical activities.
 - iii. [2.1-1.3] Apply different degrees of force, speed, and direction when directed by the teacher.
 - iv. [2.1-1.4] Apply concepts of personal and general space to accomplish movement tasks.
 - c. Second Grade
 - i. [2.2-1.1] Apply movement vocabulary of body, space, effort, flow, and relationships to complete movement tasks.

- ii. [2.2-1.2] Apply movement concepts to modify performance.
- iii. [2.2-1.3] Apply different degrees of effort, force, speed, and direction to accomplish a task.
- iv. [2.2-1.4] Apply concepts of general and personal space to accomplish movement tasks in movement patterns, games, and tasks.

2. Knowledge and Skill Cues

- a. Kindergarten
 - i. [2.K-2.1] Differentiate among locomotor skills.
 - ii. [2.K-2.2] Repeat cue words for fundamental motor skills.
- b. First Grade
 - i. [2.1-2.1] Differentiate among non-locomotor and manipulative skills.
 - ii. [2.1-2.2] Repeat cue words for fundamental motor skills and apply them to improve performance.
- c. Second Grade
 - i. [2.2-2.1] Differentiate between locomotor, non-locomotor, and manipulative skills.
 - ii. [2.2-2.2] Identify and perform locomotor, non-locomotor, and manipulative skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2107 (November 2017).

§307. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent. The intent of this standard is that students will be able to analyze physical activity outside of physical education class for fitness benefits and differentiate between skill and health related fitness. Students should design a fitness plan to maintain and enhance fitness level and analyze the impact of food choices relative to personal health and fitness.

B. Grade Level Expectations K-2

- 1. Physical Activity Knowledge
 - a. Kindergarten
 - i. [3.K-1.1] Recognize and differentiate between physical activity and inactivity.
 - ii. [3.K-1.2] Recognize the amount of physical activity within physical education.
 - iii. [3.K-1.2] Recognize that food provides energy for physical activity.
 - b. First Grade
 - i. [3.1-1.1] Identify opportunities for physical activity during the school day.
 - ii. [3.1-1.2] Track the amount of physical activity within the school day.
 - iii. [3.1-1.3] Differentiate between healthy and unhealthy food and beverage choices for physical activity.
 - c. Second Grade
 - i. [3.2-1.1] Identify opportunities for physical activity at school, home, and in the community.
 - ii. [3.2-1.2] Track the amount of physical activity within the school day.
 - iii. [3.2-1.3] Suggest alternatives to unhealthy food and beverage choices related to physical activity.

2. Cardio, Flexibility, Muscular Strength, and Endurance

- a. Kindergarten
 - i. [3.K-2.1] Recognize activities that could be used to improve each component of health-related fitness.
 - ii. [3.K-2.2] Recognize that when one moves fast, the heart beats faster and breathing becomes faster.
 - iii. [3.K-2.3] Recognize the importance of muscular strength to support body weight.
 - iv. [3.K-2.4] Identify ways to stretch muscles in the body.
- b. First Grade
 - i. [3.1-2.1] Identify activities that align with each component of health-related fitness.
 - ii. [3.1-2.2] Identify the heart as a muscle that grows stronger with exercise and physical activity.
 - iii. [3.1-2.3] Identify ways to strengthen muscles.
 - iv. [3.1-2.4] Identify ways to stretch muscles in the upper and lower body.
- c. Second Grade
 - i. [3.2-2.1] Demonstrate activities that align with each component of health-related fitness.
 - ii. [3.2-2.2] Identify activities that increase heart rate.
 - iii. [3.2-2.3] Identify activities to improve muscular strength.
 - iv. [3.2-2.4] Identify ways to stretch muscles in various parts of the body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2108 (November 2017).

§309. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is that students will demonstrate responsible interpersonal behavior (peer to peer, student to teacher, student to referee) in a variety of physical activity contexts, environments, and facilities. The student will be able to give correct feedback respectfully to peers and willing involve students with higher or lower skill ability into group projects/activities. The students will demonstrate appropriate etiquette and safety principles in a variety of physical activity settings.

B. Grade Level Expectations K-2

- 1. Self-Direction and Safety
 - a. Kindergarten
 - i. [4.K-1.1] Respond positively to reminders of appropriate safety procedures.
 - ii. [4.K-1.2] Follow directions and handle equipment safely.
 - iii. [4.K-1.3] Work independently and safely in personal and shared space.
 - iv. [4.K-1.4] Explain rules related to safety and activity-specific procedures.
 - b. First Grade
 - i. [4.1-1.1] Respond positively to reminders of appropriate safety procedures.
 - ii. [4.1-1.2] Follow directions and handle equipment safely.

- iii. [4.1-1.3] Demonstrate individual work safety around others and in a shared space.
- iv. [4.1-1.4] Explain rules related to safety and activity-specific procedures.
- c. Second Grade
 - i. [4.2-1.1] Respond positively to reminders of appropriate safety procedures.
 - ii. [4.2-1.2] Follow directions and handle equipment safely.
 - iii. [4.2-1.3] Participate and assess one's behavior in physical activities.
 - iv. [4.2-1.4] Explain rules related to safety and activity-specific procedures.
- 2. Cooperation and Respect
 - a. Kindergarten
 - i. [4.K-2.1] Follow instructions while participating in physical education activities.
 - ii. [4.K-2.2] Demonstrate cooperation and consideration of others in partner and group physical activities.
 - iii. [4.K-2.3] Demonstrate willingness to work with a variety of partners in physical education activities.
 - b. First Grade
 - i. [4.1-2.1] Follow instructions and class procedures while participating in physical education activities.
 - ii. [4.1-2.2] Describe examples of cooperation and sharing in a variety of physical activities.
 - iii. [4.1-2.3] Demonstrate consideration of others with varying skill or fitness levels while participating in physical education activities.
 - c. Second Grade
 - i. [4.2-2.1] Apply proper class procedures while participating in physical education activities.
 - ii. [4.2-2.2] Demonstrate cooperation with others when resolving conflicts in physical education activities.
 - iii. [4.2-2.3] Interact positively with others in partner and small group activities respecting individual differences.
 - iv. [4.2-2.4] Take turns using equipment or performing a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2108 (November 2017).

§311. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. The intent of this standard is to develop a student who is able to compare the health benefits of a variety of physical activities. Students are able to express enjoyment and/or the willingness to participate in physical activities that are new and different. Students will view physical activity as an opportunity for social interaction across the lifespan.

B. Grade Level Expectations K-2

1. Health Reasons to be Physically Active

a. Kindergarten

i. [5.K-1.1] Recognize physical activity has positive health benefits.

b. First Grade

i. [5.1-1.1] Recognize more physical activity leads to additional health benefits.

c. Second Grade

i. [5.2-1.1] Identify specific health benefits from participation in daily physical activity.

2. Enjoyment

a. Kindergarten

i. [5.K-2.1] Participate in physical activity outside of class time or during their leisure time.

b. First Grade

i. [5.1-2.1] Attempt new activities presented in class.

c. Second Grade

i. [5.2-2.1] Discuss personal choices for enjoying various types of physical activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2109 (November 2017).

Chapter 5. Grades 3—5 Cluster Level

§501. Introduction

A. The focus of the 3-5 cluster is an increase in the difficulty of movement challenges presented to students in the form of combining movement patterns (fielding a ground ball, dribbling while running) that are authentic to game situations. Skill practice becomes more specific as the complexity of small sided games increases. Emphasis shifts to students being able to give appropriate feedback, applying movement concepts and working with partners or in groups with peers of higher or lower skill abilities. An emphasis on etiquette and safety of physical activity is included in all lessons. Health-enhancing concepts continue to focus on the health-related components of physical fitness and the benefits to overall physical health.

B. The following standards were developed and reshaped in order to meet the most up-to-date goals and outcomes established in elementary physical education. Teachers are expected to review the standards and outcomes related to achieving the standards when planning school curriculum. Activities for class are chosen based on student ability to meet the standards, not the other way around which has traditionally dominated physical education. Below are suggestions of standards-based curriculum models that were designed to help teachers achieve the standards through evidence-based practice:

1. teaching games for understanding;
2. skills-theme approach;
3. social and personal responsibility model.

C. Through the use of appropriate practices and evidence-based curriculum models, teachers can develop a comprehensive physical education program that promotes enjoyment, confidence, and competence in a variety of fundamental movement concept. Standards provide criteria for all students, and other stakeholders that represent what students should know and be able to do. Therefore, with careful planning and proper assessment the following standards will show what students have achieved by graduation from high school.

D. Physical education classes support students by developing the necessary skills to achieve each standard and

outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

E. Reading the Standards. There are five standards listed for elementary physical education (K-5). Elementary requirements for Louisiana students include daily physical education for students. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies to which grade level the statement pertains. Directly following the hyphen, the number listed states which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). Here is how to interpret each coded outcome:

1. example: [1.K-2.4] Kick a stationary ball:

a. 1 = the first number listed provides what standard is being identified, in this case standard one. (This could be 1-5, depending on the standard).

b. K= the number or letter listed provides the level targeted, in this case kindergarten.

c. 2= the number or letter listed provides the component being targeted within the standard, in this case the second component related to the standard.

d. 4 = the number listed provides the expectation within that component, in this case the fourth expectation a student should be able to complete.

NOTE: Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

2. The following terms are used throughout the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2109 (November 2017).

§503. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to ensure that upon exiting the fifth grade, students will demonstrate mature patterns in fundamental motor skills and selected combinations of those skills. Students will be able to use movement concepts in small-sided practice tasks, dance, gymnastics, and lead up games that utilize a variety of equipment.

B. Grade Level Expectations Grades 3-5

1. Combine Skills

a. Third Grade

i. [1.3-1.1] Perform a sequence of movements with a beginning, middle and end.

ii. [1.3-1.2] Jump rope demonstrating a variety of footwork skills.

iii. [1.3-1.3] Balance on different bases of support and on apparatus demonstrating different levels, shapes, and patterns.

iv. [1.3-1.4] Perform teacher-selected and developmentally appropriate dance steps and movement patterns.

b. Fourth Grade

i. [1.4-1.1] Perform a movement sequence comprised of both basic and intermediate skills.

ii. [1.4-1.2] Jump rope demonstrating a variety of footwork and arm action skills.

iii. [1.4-1.3] Combine balance and weight transfer skills in a movement sequence.

iv. [1.4-1.4] Combine locomotor movement patterns and dance steps to create and perform a dance.

c. Fifth Grade

i. [1.5-1.1] Perform a movement sequence comprised of both basic and intermediate skills with smooth transitions between those movements.

ii. [1.5-1.2] Jump rope demonstrating a variety of footwork, arm action skills, and/or tricks of choice.

iii. [1.5-1.3] Combine balance and transferring weight with movement skills in a gymnastics or dance sequence.

iv. [1.5-1.4] Combine skills in dances with correct rhythm and pattern.

2. Application of Skills

a. Third Grade

i. [1.3-2.1] Throw overhand with force using appropriate critical elements.

ii. [1.3-2.2] Catch a variety of objects in dynamic conditions using the critical elements.

iii. [1.3-2.3] Strike an object with an implement using the critical elements.

iv. [1.3-2.4] Kick a ball with the inside of the foot to a target using the critical elements.

v. [1.3-2.5] Dribble and maintain control while moving through space using the critical elements.

vi. [1.3-2.6] Send an object to a target using critical elements in a stable environment.

b. Fourth Grade

i. [1.4-2.1] Throw overhand with varying degrees of force using appropriate critical elements to reach different distances.

ii. [1.4-2.2] Catch two-handed during a game or game-like situation using the critical elements.

iii. [1.4-2.3] Strike an object with an implement using the critical elements.

iv. [1.4-2.4] Kick a ball to targets with the inside of the foot using the critical elements.

v. [1.4-2.5] Dribble with control while moving through space to avoid stationary objects using the critical elements.

vi. [1.4-2.6] Send an object to a target using critical elements while varying space, distance, location, and relationship to objects.

c. Fifth Grade

i. [1.5-2.1] Throw overhand to reach a medium-sized target with sufficient force using appropriate critical elements.

ii. [1.5-2.2] Catch with an implement (e.g., glove, scoop) using the critical elements.

iii. [1.5-2.3] Strike an object with an implement using critical elements in relation to distance, space, and direction demands.

iv. [1.5-2.4] Receive a kick, dribble and then kick a ball to a target using the critical elements.

v. [1.5-2.5] Dribble under control during a game or game-like situation using the critical elements.

vi. [1.5-2.6] Send an object using critical elements while varying body, space, effort, and relationship to defenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2110 (November 2017).

§505. Standard 2

A. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is to ensure the student is able to apply the knowledge of concepts, principles, strategies, and tactics related to movement and performance. Students should be able to analyze movement situations and apply movement concepts (speed, direction, force, extensions) in small-sided practice tasks and game environments, dance, and gymnastics. Students should also demonstrate competency and understanding of basic offensive and defensive strategies for small-sided and net/wall games.

B. Grade Level Expectations Grades 3-5

1. Strategies and Tactics

a. Third Grade

i. [2.3-1.1] Modify movement to meet the demands of a task.

ii. [2.3-1.2] Explain how the characteristics of an object affect performance of manipulative skills.

iii. [2.3-1.3] Recognize offensive and defensive situations.

iv. [2.3-1.4] Identify the choices necessary to score a goal or point.

b. Fourth Grade

i. [2.4-1.1] Explain the importance of weight transfer in object propulsion skills.

ii. [2.4-1.2] Describe and demonstrate the correct movement or movement qualities based on the characteristics of the task and/or environment.

iii. [2.4-1.3] Identify open space and areas of space to defend in a dynamic environment.

iv. [2.4-1.4] Select correct decision when presented with a tactical problem to score.

c. Fifth Grade

i. [2.5-1.1] Identify similar patterns/concepts across related activities.

ii. [2.5-1.2] Analyze and modify a movement based on the characteristics of the task and/or environment in a dynamic or changing environment.

iii. [2.5-1.3] Demonstrate offensive and defensive positioning in simple game settings.

iv. [2.5-1.4] Demonstrate basic decision-making capabilities in simple performance settings.

2. Principles and Critical Elements

a. Third Grade

i. [2.3-2.1] Describe the critical elements of the manipulative skills and activity-specific skills.

ii. [2.3-2.2] Explain how appropriate practice improves performance.

b. Fourth Grade

i. [2.4-2.1] Identify correct and incorrect aspects of skill performance using critical elements.

ii. [2.4-2.2] Explain how to improve performance of a movement or skill.

c. Fifth Grade

i. [2.5-2.1] Apply critical elements to analyze and provide feedback on motor-skill performance of others.

ii. [2.5-2.2] Suggest ways to improve skill performance using the principles of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2111 (November 2017).

§507. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent: The intent of this standard is that students will be able to analyze physical activity outside of physical education class for fitness benefits and differentiate between skill and health-related fitness.

B. Grade Level Expectations Grades 3-5

1. Physical Activity Knowledge

a. Third Grade

i. [3.3-1.1] Identify school, home, and community physical activity opportunities to meet physical activity guidelines.

ii. [3.3-1.2] Track physical activity minutes inside and outside of school to determine progress toward daily recommendation.

iii. [3.3-1.3] Identifies foods that are beneficial for before and after physical activity.

b. Fourth Grade

i. [3.4-1.1] Analyze opportunities for participating in physical activity outside of physical education class.

ii. [3.4-1.2] Track and chart physical activity minutes or steps to determine progress toward daily recommendation.

iii. [3.4-1.3] Discuss the importance of hydration and dehydration choices relative to physical activities.

- c. Fifth Grade
 - i. [3.5-1.1] Identify school, home, and community physical activity opportunities to meet physical activity guidelines.
 - ii. [3.5-1.2] Track and chart physical activity minutes to determine progress toward daily recommendation.
 - iii. [3.5-1.3] Analyze the impact of food choices relative to physical activity, youth sports, and personal health.
- 2. Health Related Fitness Knowledge
 - a. Third Grade
 - i. [3.3-2.1] Describe the concept of fitness and provide examples of heart rate evaluation methods.
 - ii. [3.3-2.2] Assess heart rate during physical activity and exercise.
 - iii. [3.3-2.3] Identify activities to improve muscular strength and endurance in the core area.
 - iv. [3.3-2.4] Recognize the importance of warm-up and cool-down activities.
 - v. [3.3-2.5] Analyze the results of a fitness assessment to determine areas in a healthy fitness zone (HFZ).
 - vi. [3.3-2.6] Identify the frequency and type of exercise in relationship to the FITT principle.
 - b. Fourth Grade
 - i. [3.4-2.1] Completes fitness assessments (pre and post).
 - ii. [3.4-2.2] Link specific activities to the appropriate health-related fitness component.
 - iii. [3.4-2.3] Evaluate heart rate during physical activity and exercise to sustain a moderate to vigorous activity for longer periods of time.
 - iv. [3.4-2.4] Identify activities to improve muscular strength and endurance in the upper and lower body.
 - v. [3.4-2.5] Demonstrate warm-up and cool down relative to cardiorespiratory fitness assessment.
 - vi. [3.4-2.6] Analyze the results of a fitness assessment to determine areas in the HFZ and those that need improvement.
 - vii. [3.4-2.7] Identify strategies for progress in fitness.
 - c. Fifth Grade
 - i. [3.5-2.1] Identify and apply frequency, intensity, time, and type (FITT) to a fitness plan.
 - ii. [3.5-2.2] Identify specific activities that could improve each health-related fitness component.
 - iii. [3.5-2.3] Interpret heart rate during physical activity and exercise to determine appropriate level of intensity.
 - iv. [3.5-2.4] Identify specific activities to improve muscular strength and endurance throughout the body.
 - v. [3.5-2.5] Identify warm-up and cool-down activities.
 - vi. [3.5-2.6] Perform a nationally recognized fitness assessment (pre and post) comparing results to fitness components for good health.
 - vii. [3.5-2.7] Identify strategies for progress in fitness areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2111 (November 2017).

§509. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is that the student will demonstrate responsible interpersonal behavior (peer-to-peer, student-to-teacher, student-to-referee) in a variety of physical activity contexts, environments, and facilities. The student will be able to give correct feedback respectfully to peers and willingly involve students with higher or lower skill ability into group projects/activities. The student will demonstrate appropriate etiquette and safety principles in a variety of physical activity settings.

B. Grade Level Expectations Grades 3-5

1. Self-Direction and Safety

a. Third Grade

i. [4.3-1.1] Exhibit personal responsibility in teacher-directed physical activities.

ii. [4.3-1.2] Identify and follow equipment-specific safety rules.

b. Fourth Grade

i. [4.4-1.1] Exhibit responsible behavior in small sided game activities.

ii. [4.4-1.2] Adjust performance to characteristics of the environment to ensure safe play.

iii. [4.4-1.3] Participate in team activities and stay on task with prompts and encouragement from others.

c. Fifth Grade

i. [4.5 1.1] Assess adherence to rules, etiquette, and fair play of various games and activities.

ii. [4.5-1.2] Model good sportsmanship to ensure safe play in team activities.

iii. [4.5-1.3] Demonstrate proper decision making skills while engaged in game activities.

2. Cooperation, Respect, and Resolving Conflict

a. Third Grade

i. [4.3-2.1] Work cooperatively with a partner or small group during class activities.

ii. [4.3-2.2] Cooperate with a partner or small group by taking turns and sharing equipment while participating in physical activities.

iii. [4.3-2.3] Demonstrate acceptance of the skill and ability of others through verbal and non-verbal communication during activities.

iv. [4.3-2.4] Demonstrate cooperation with others when resolving conflict during game play and sharing equipment.

b. Fourth Grade

i. [4.4-2.1] Listen, discuss options, and develop a plan to accomplish a partner or group task or to improve play during physical education activity.

ii. [4.4-2.2] Participate with a group in cooperative problem-solving activities while participating in physical activities.

iii. [4.4-2.3] Demonstrate cooperation with and respect for peers different from oneself during skills practice and within game play during physical activities.

iv. [4.4-2.4] Demonstrate cooperation with others when resolving conflict during skill practice and game play.

c. Fifth Grade

i. [4.5-2.1] Lead, follow, and support group members to improve play in cooperative activities and competitive settings.

ii. [4.5-2.2] Evaluate personal behavior during activities to ensure positive effects on others and increase cohesion of teams.

iii. [4.5-2.3] Demonstrate respectful and responsible behavior toward peers different from oneself during activity practices.

iv. [4.5-2.4] Demonstrate cooperation with others when resolving conflict during skills practice and game play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2112 (November 2017).

§511. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent: The intent of this standard is to develop a student who is able to compare the health benefits of a variety of physical activities. Students are able to express enjoyment and/or the willingness to participate in physical activities that are new and different. Students will view physical activity as an opportunity for social interaction across the lifespan.

B. Grade Level Expectations Grades 3-5

1. Health Reasons to be Physically Active

a. Third Grade

i. [5.3-1.1] Discuss the relationship between physical activity and good health.

b. Fourth Grade

i. [5.4-1.1] Examine the health benefits of participating in physical activity.

c. Fifth Grade

i. [5.5-1.1] Compare the health benefits of participation in selected physical activities.

2. Values Physical Activity through Various Means

a. Third Grade

i. [5.3-2.1] Identify reasons for enjoying a selected physical activity.

ii. [5.3-2.2] Verbalize the positive and negative aspects related to learning a new physical activity.

iii. [5.3-2.3] Describe the positive social interactions that comes when engaging with others in physical activity.

b. Fourth Grade

i. [5.4-2.1] Examine the health benefits of participating in physical activity.

ii. [5.4-2.2] Identify aspects of a physical activity that are challenging and mastered.

iii. [5.4-2.3] Describe and compare positive social interactions when engaged in partner, small group, and large group activities.

c. Fifth Grade

i. [5.5-2.1] Compare the health benefits of participation in selected physical activities.

ii. [5.5-2.2] Analyze the personal benefits of participation in an activity that is challenging.

iii. [5.5-2.3] Analyze the positive impact of verbal and non-verbal encouragement in physical activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2113 (November 2017).

§513. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2113 (November 2017).

Chapter 7. Grades 6—8 Cluster Level

§701. Introduction

A. By the end of grade 8, the learner will:

1. apply tactics and strategies to modified game play;
2. demonstrate fundamental movement skills in a variety of contexts;
3. design and implement a health-enhancing fitness program;
4. participate in self-selected physical activity;
5. cooperate with and encourage classmates;
6. accept individual differences;
7. demonstrate inclusive behaviors; and
8. engage in physical activity for enjoyment and self-expression.

B. Physical education classes support student development of the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

C. Reading the Standards: There are five standards listed for middle school (grades 6-8) requirements for Louisiana students including daily physical education for students. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies to which grade level the statement pertains. Directly following the hyphen, the number listed states which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). Here is how to interpret each coded outcome:

1. example: [1.6-1.3] Perform simple dance sequences:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard);

b. 6 = the number or letter listed provides the level targeted; in this case, sixth grade;

c. 1 = the number or letter listed provides the component being targeted within the standard; in this case, the first component related to the standard;

d. 3 = this number listed provides the expectation within that component; in this case, the third expectation a student should be able to complete.

2. Note. Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

3. The following terms are used throughout the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2113 (November 2017).

§703. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is the development of the physical skills needed to enjoy participation in physical activities. Maturing movement fundamentals establish a foundation to facilitate the development of continued motor skill acquisition at all levels.

B. Grade Level Equivalents

1. Specialized Skills and Movement Patterns

a. [1.6-1.1] Demonstrate simple movement patterns in dance, gymnastics, or fitness.

b. [1.6-1.2] Demonstrate the critical elements of specialized locomotor and non-locomotor skills in a variety of movement forms in controlled settings.

c. [1.6-1.3] Perform simple dance sequences.

d. [1.7-1.1] Exhibit command of rhythm and timing by creating a movement sequence to music as an individual, with a partner, or in a small group.

e. [1.7-1.2] Demonstrate a routine that includes a variety of movement patterns in dance, gymnastics or fitness with an individual, with a partner or small group.

f. [1.8-1.1] Exhibit command of rhythm and timing by creating a movement sequence to music in a group by traveling, balance, and weight transfer into a smooth, flowing, coordinated sequence.

2. Invasion Games

a. Passing

i. [1.6-2.1] Demonstrate a mature passing pattern using hand, foot, or implement for accuracy during practice tasks.

ii. [1.7-2.1] Demonstrate a mature passing pattern using hand, foot, or implement for distance and accuracy in small-sided games.

iii. [1.8-2.1] Demonstrate sending an object to a target in controlled practice to achieve successful game-related outcomes.

b. Receiving

i. [1.6-3.1] Receive with a mature pattern using hand, foot, or implement in practice tasks.

ii. [1.7-3.1] Receive with a mature pattern using hand, foot, or implement in small-sided games.

iii. [1.8-3.1] Receive with a mature receiving pattern using an implement in small sided games.

c. Offensive Skills

i. [1.6-4.1] Demonstrate understanding of basic offensive tactics related to off-the-ball movements while participating in game-like settings.

ii. [1.6-4.2] Identify and perform offensive strategies while playing a modified version of a game or sport in small group activities.

iii. [1.7-4.1] Create space and position self in space to create scoring opportunities.

iv. [1.7-4.2] Execute at least one of the following designed to create open space during small-sided game play: pivots, fakes, and jab steps.

v. [1.7-4.3] Demonstrate offensive strategies used while playing a basic version of a team or individual sport.

vi. [1.8-4.1] Execute at least two of the following to create open space during modified game play: pivots, fakes, jab steps, give-and-go, V-cuts, and/or screens.

vii. [1.8-4.2] Applies basic offensive strategies in a modified version of a team or individual sport.

d. Dribbling and Ball Control with Hands

i. [1.6-5.1] Dribble with dominant hand using a change of speed and direction in a variety of practice tasks.

ii. [1.7-5.1] Dribble with dominant and non-dominant hand using a change of speed and direction in a variety of practice tasks.

iii. [1.8-5.1] Dribble with dominant and non-dominant hand using a change of speed and direction in small-sided game play.

e. Dribbling and Ball Control with Feet

i. [1.6-6.1] Foot-dribble or dribble with an implement with control, changing speed and direction in a variety of practice tasks.

ii. [1.7-6.1] Foot-dribble or dribble with an implement combined with passing in a variety of practice tasks.

iii. [1.8-6.1] Foot dribble or dribble with an implement with control, changing speed and direction during small-sided game play.

f. Shooting on Goal

i. [1.6-7.1] Shoot on goal with power in a dynamic environment as appropriate to the activity.

ii. [1.7-7.1] Shoot on goal with power and accuracy in a variety of practice tasks.

iii. [1.8-7.1] Shoot on goal with or without an implement with power and accuracy during small-sided game play.

g. Defensive Skills

i. [1.6-8.1] Demonstrate the skill cues for the defensive ready position (weight on balls of feet, arms extended, and eyes on midsection of the offensive player).

ii. [1.7-8.1] Slide in all directions while on defense without crossing feet.

iii. [1.8-8.1] Maintain defensive ready position appropriate to the sport in a small-sided invasion game.

3. Net/Wall Games

a. Serving

i. [1.6-9.1] Perform a legal underhand serve with control for net/wall games.

ii. [1.7-9.1] Execute consistently (at least 70 percent of the time) a legal underhand serve to a predetermined target for net/wall games.

- iii. [1.8-9.1] Execute consistently (at least 70 percent of the time) a legal underhand serve for distance and accuracy for net/wall games.
 - b. Striking
 - i. [1.6-10.1] Strike with a mature overarm pattern in a net/wall game during practice tasks.
 - ii. [1.7-10.1] Strike with a mature overarm pattern in a net/wall game during singles, doubles, and small-sided games.
 - iii. [1.8-10.1] Strike with a mature overarm pattern in a net/wall game during singles, doubles, and small-sided games.
 - c. Forehand and Backhand
 - i. [1.6-11.1] Demonstrate the mature form of forehand and backhand strokes with a short-handled implement in net games in practice task.
 - ii. [1.7-11.1] Demonstrate the mature form of forehand and backhand strokes with a long-handled implement in net games in singles or doubles.
 - iii. [1.8-11.1] Demonstrate the mature form of forehand and backhand strokes with a short- or long-handled implement with power and accuracy in net games in singles or doubles.
 - d. Weight Transfer
 - i. [1.6-12.1] Transfer weight with correct timing for the striking pattern.
 - ii. [1.7-12.1] Transfer weight with correct timing using a low-to-high striking pattern with a short-handled implement on the forehand/backhand side.
 - iii. [1.8-12.1] Transfer weight with correct timing using low to high striking pattern with a short- or long-handled implement on the forehand or backhand side.
 - e. Volley
 - i. [1.6-13.1] Volley with mature form and control using a body part or a short-handled implement during practice task.
 - ii. [1.7-13.1] Volley with a mature form and control using a body part or a short-handled implement during singles, doubles, or a small-sided game.
 - iii. [1.8-13.1] Volley with a mature form and control using a body part or a short-handled implement during singles, doubles, or a small-sided game.
4. Target Games
- a. Underhand Pattern
 - i. [1.6-14.1] Demonstrate a mature underhand pattern for modified target games.
 - ii. [1.7-14.1] Execute consistently (70 percent of the time) a mature underhand pattern for target games.
 - iii. [1.8-14.1] Perform consistently (70 percent of the time) a mature underhand pattern with accuracy and control for target games.
 - b. Striking
 - i. [1.6-15.1] Strike, with an implement, a stationary object for accuracy in activities.
 - ii. [1.7-15.1] Strike, with an implement, a stationary object for accuracy and distance in activities.
 - iii. [1.8-15.1] Strike, with an implement, a stationary object for accuracy, distance, and power.

5. Fielding and Striking Games
- a. Striking
 - i. [1.6-16.1] Strike a pitched ball with an implement with force in a variety of practice tasks.
 - ii. [1.7-16.1] Strike a pitched ball with an implement for power to open space in a variety of practice tasks.
 - iii. [1.8-16.1] Strike pitched ball with an implement for power to open space in a variety of small-sided games.
 - b. Catching
 - i. [1.6-17.1] Catch, with mature pattern, from different trajectories using a variety of objects in varying practice tasks.
 - ii. [1.7-17.1] Catch, with a mature pattern, from different trajectories in a small-sided game play.
 - iii. [1.8-17.1] Catch, with or without an implement, from different trajectories and speeds in a dynamic environment or in small-sided game play.
6. Lifetime Activities
- a. [1.6-18.1] Demonstrate correct technique for basic skills in at least one self-selected individual or group lifetime activity.
 - b. [1.7-18.1] Demonstrate correct technique for a variety of skills in at least one self-selected individual or group lifetime activity.
 - c. [1.8-18.1] Demonstrate correct technique for basic skills on at least two self- selected individual or group lifetime activities.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2114 (November 2017).
- §705. Standard 2**
- A. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.
1. Intent. The intent of this standard is the facilitation of student ability to use cognitive information to understand and enhance motor skill acquisition and performance. Students use performance feedback to increase cognitive understanding of a skill as well as to improve performance. Students learn more complex motor skills and transfer the knowledge learned for a higher performance and skill level.
- B. Grade Level Equivalents
1. Invasion Games
- a. Offensive Tactics
 - i. [2.6-1.1] Demonstrate creating open space moving to open space without the ball and/or using a variety of passes, pivots, and fakes.
 - ii. [2.7-1.1] Demonstrate creating open space by staying spread out on offense and cutting and passing quickly.
 - iii. [2.8-1.1] Demonstrate creating open space by using a give-and-go and using fakes off the ball.
 - b. Defensive Tactics
 - i. [2.6-2.1] Demonstrate reducing open space on defense by crashing the passer to reduce passing angles.

- ii. [2.7-2.1] Demonstrate reducing open space on defense by staying within arms-length of the opponent between the opponent and the goal.
 - iii. [2.8-2.1] Demonstrate reducing open space on defense by anticipating the speed of the object or person for the purpose of interception or deflection.
2. Net and Wall Games
- a. Creating space
 - i. [2.6-3.1] Demonstrate creating open space by moving opponent more than one step in either direction.
 - ii. [2.7-3.1] Demonstrate creating open space by moving opponent from side to side and/or forward and backward.
 - iii. [2.8-3.1] Demonstrate creating open space by varying force while moving opponent from side to side and/or forward and backward.
 - b. Tactics and Shots
 - i. [2.6-4.1] Demonstrate the ability to return to a home or center position to reduce offensive options for opponents.
 - ii. [2.7-4.1] Demonstrate one or more offensive shots based on an opponent's location.
 - iii. [2.8-4.1] Demonstrate one or more offensive shots using placement, force, or timing to win a rally.
3. Fielding and Striking Games
- a. Offensive Tactics
 - i. [2.6-5.1] Identify open spaces and demonstrate the ability to strike an object into an open space.
 - ii. [2.7-5.1] Demonstrate a variety of shots to open space.
 - iii. [2.8-5.1] Demonstrate a variety of shots to open space during small-sided game play.
 - b. Defensive Tactics
 - i. [2.6-6.1] Identify a defensive play based on a game situation/scenario.
 - ii. [2.7-6.1] Demonstrate a defensive play when put in a game situation/scenario.
 - iii. [2.8-6.1] Demonstrate a defensive play during small-sided game play.
4. Target Games
- a. Shot Selection
 - i. [2.6-7.1] Identify an appropriate shot or club based on location of the target or the score of the game.
 - ii. [2.7-7.1] Describe an appropriate shot based on the location of the target or the score of the game by varying the speed, force, or trajectory of the object.
 - iii. [2.8-7.1] Demonstrate an appropriate shot based on the location of the target or the score of the game by varying the speed, force, or trajectory of the object.
5. Individual Performance
- a. Movement Concepts
 - i. [2.6-8.1] Demonstrate a varied application of force during individual performance activities.
 - ii. [2.7-8.1] Describe Newton's first law of motion in one or more individual performance activities.
 - iii. [2.8-8.1] Evaluate the mechanical principles for a variety of movement patterns and skills to improve performance of self or others.

6. Individual and Lifetime Activities
- a. Decision-Making
 - i. [2.6-9.1] Make appropriate decisions based on weather, level of difficulty due to conditions, or ability to ensure safety of self and others.
 - ii. [2.7-9.1] Analyze the situation and make adjustments to ensure safety of self and others.
 - iii. [2.8-9.1] Implement safe protocols in self-selected activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2115 (November 2017).

§707. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent. The intent of this standard is the development of student knowledge, skills, and willingness to accept responsibility for personal fitness, leading to an active, healthy lifestyle. Health-related fitness components include cardiovascular fitness, muscular strength and endurance, flexibility, and body composition. Expectations for student fitness levels should be established on a personal basis rather than setting a single standard for all students at a given grade level. Moreover, a student becomes more skilled in the ability to self-assess, plan, perform, interpret results, and monitor physical activities appropriate for developing a health-enhancing level of physical fitness.

B. Grade Level Equivalents

1. Benefits of Activity

- a. [3.6-1.1] Describe how being physically active leads to positive physical health benefits.
- b. [3.7-1.1] Analyze the relationship between physical activity levels and mental health.
- c. [3.8-1.1] Explain the connections between the five health-related fitness components (cardiovascular endurance, muscular endurance, muscular strength, flexibility, body composition) and overall physical, mental, and emotional health.

2. Evaluates Physical Activity

- a. [3.6-2.1] Collect and reflect on personal physical activity assessment data.
- b. [3.7-2.1] Collect and analyze personal physical activity assessment data to develop a plan to improve or maintain physical activity levels.
- c. [3.8-2.1] Implement a plan to improve or maintain physical activity levels based on personal physical activity assessment data.

3. Health and Skill Related Fitness

- a. [3.6-3.1] Identify the components of health-related (cardiovascular endurance, muscular endurance, muscular strength, flexibility, body composition) and skill-related fitness (balance, coordination, reaction time, agility, power, speed).
- b. [3.7-3.1] Describe the health-related and skill-related fitness components.

c. [3.8-3.1] Compare and contrast the health-related and skill-related fitness components.

4. Principles of Training

a. [3.6-4.1] Identify the principles of training (specificity, overload, and progression).

b. [3.7-4.1] Describe the principles of training.

c. [3.8-4.1] Analyze a fitness plan for the principles of training.

5. Frequency, Intensity, Time, and Type (FITT) Principles

a. [3.6-5.1] Identify each of the components of the FITT Principle (frequency, intensity, time and type)

b. [3.7-5.1] Describe the FITT Principle for the following components of health-related fitness: cardiovascular endurance, muscular endurance, muscular strength, and flexibility.

c. [3.8-5.1] Develop a personal workout plan using the FITT Principle for one of the health-related fitness components.

6. Phases of Exercise

a. [3.6-6.1] Describe the role of warm-up and cool-down regimens used for participation in physical activity.

b. [3.7-6.1] Design a warm up and cool down routine for a class or self-selected physical activity.

c. [3.8-6.1] Implement a personal or group warm up or cool down routine for a class or self-selected physical activity.

7. Heart Rate

a. [3.6-7.1] Describe the differences between active and resting heart rate.

b. [3.7-7.1] Calculate/Find pulse and use the rating of perceived exertion (RPE) for activities of different intensities.

c. [3.8-7.1] Analyze the relationship between pulse and RPE for activities of different intensities.

8. Body Systems

a. [3.6-8.1] Identify major muscle groups used in selected physical activities. Identify the role of major body systems (respiratory, muscular, and skeletal).

b. [3.7-8.1] Describe the mechanisms behind movement of large muscle groups.

c. [3.8-8.1] Explain the role of the respiratory, muscular, and skeletal systems and the interactions during physical activity.

9. Technology

a. [3.6-9.1] Identify and/or use technology to monitor fitness.

b. [3.7-9.1] Describe the benefits of and/or uses technology to monitor fitness.

c. [3.8-9.1] Apply the use of various forms of technology to the concept of monitoring fitness and/or use various forms of technology to monitor fitness.

10. Assessment and Program Planning

a. [3.6-10.1] Develop SMART (specific, measurable, attainable, realistic, and timely) goals for improving or maintaining all areas of health-related fitness (cardiovascular endurance, muscular endurance, muscular strength, flexibility, and body composition) based on fitness assessment results.

b. [3.7-10.1] Uses SMART goals to design a personal workout plan based on results of at least two health-related fitness assessments.

c. [3.8-10.1] Design and implement a personal workout plan based on results of at least two health-related fitness assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2116 (November 2017).

§709. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is to reflect development towards self-initiated behaviors that promote personal and group success in all physical activities that can be transferred to college, career, and life. These behaviors include but are not limited to safe practices, adherence to rules and procedures, etiquette, cooperation, teamwork, ethical behavior, and positive social interaction and inclusion, and also include respect toward teachers, other students, and the environment. Key to the standard is developing respect and appreciation for individual similarities and differences among participants in physical activity.

B. Grade Level Equivalents

1. Personal Responsibility

a. [4.6-1.1] Exhibit personal responsibility by using appropriate etiquette, demonstrating respect for facilities, and exhibiting safe behaviors in a physical education setting.

b. [4.7-1.1] Exhibit responsible social behaviors by cooperating with classmates, demonstrating inclusive behaviors, and supporting classmates in physical education activities.

c. [4.8-1.1] Accept responsibility for individual improvement of levels physical activity and fitness.

d. [4.6-2.1] Identify and use appropriate strategies to self-reinforce positive fitness behaviors, such as positive self-talk.

e. [4.7-2.1] Demonstrate both intrinsic and extrinsic motivation by selecting opportunities to participate in physical activity outside of class.

f. [4.8-2.1] Use effective self-monitoring skills to incorporate opportunities for physical activity in and out of school setting.

2. Providing and Receiving Feedback

a. [4.6-3.1] Demonstrate self-responsibility by modifying performance utilizing specific corrective feedback to improve execution during skill practice.

b. [4.7-3.1] Observe and analyze the performance of other students to provide corrective feedback using teacher-generated guidelines while practicing a variety of skills.

c. [4.8-3.1] Demonstrate the ability to provide positive encouragement and corrective feedback to peers without prompting from the teacher during play, practice, or discussions in a physical activity setting.

3. Working with Others

a. Conflict Resolution

i. [4.6-4.1] Accept differences among classmates in physical development, maturation, and varying skill levels by providing encouragement and positive feedback during skill practice, game play, and dance activities.

ii. [4.7-4.1] Demonstrate cooperation skills by establishing rules and guidelines for resolving conflicts during physical education activities.

iii. [4.8-4.1] Respond appropriately to ethical and unethical behavior of participants during physical activity by using the rules and guidelines for conflict resolution as established by the teacher.

b. Cooperation and Accepting Others

i. [4.6-5.1] Cooperate with others of different genders, cultures, ethnicities, abilities, and skill levels in physical activity settings.

ii. [4.7-5.1] Participate in a sport, game, and/or dance as a means to interact with individuals of diverse backgrounds.

iii. [4.8-5.1] Contribute positively to team building and/or problem solving activities.

4. Rules and Etiquette

a. [4.6-6.1] Demonstrate basic rules and etiquette during individual and group physical activities (dance, individual, team, and lifetime).

b. [4.7-6.1] Demonstrate understanding of rules and etiquette by self-directing physical activities (dance, individual, team, and lifetime).

c. [4.8-6.1] Apply rules and etiquette by acting as an official for physical activities (dance, individual, team, and lifetime).

5. Safety

a. [4.6-7.1] Use physical activity and fitness equipment appropriately and safely, and follow safety protocols with teacher guidance.

b. [4.7-7.1] Use independently physical activity and fitness equipment appropriately, and independently follow safety protocols.

c. [4.8-7.1] Identify specific safety concerns associated with physical activity and fitness equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2117 (November 2017).

§711. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. This standard reflects the development of an awareness of intrinsic values and benefits of participation in physical activity that provides personal meaning. Physical activity can be enjoyable, challenging, and fun, and provides opportunities for self-expression and social interaction. These benefits can develop self-confidence, promote a positive self-image, and continue a healthy, active lifestyle. As a result of these benefits of participation, students will begin to actively pursue life-long physical activities that meet their own needs.

B. Grade Level Equivalents

1. Challenge

a. [5.6-1.1] Identify a specific activity that is played because the student finds it challenging.

b. [5.7-1.1] Develop solutions and strategies for overcoming challenges faced in physical activity settings.

c. [5.8-1.1] Apply strategies for overcoming individual or group challenges in a physical activity setting.

2. Self-Expression and Enjoyment

a. [5.6-2.1] Describe how physical activity provides the opportunity for enjoyment and self-expression, and

identify strategies that can be used to increase enjoyment and/or self-expression.

b. [5.7-2.1] Explain the relationship between self-expression and lifelong enjoyment through physical activity.

c. [5.8-2.1] Select to participate in an enjoyable activity that prompts individual self-expression.

3. Social Interaction

a. [5.6-3.1] Identify a specific physical activity in which a student participates because of the opportunity for social interaction.

b. [5.7-3.1] Analyze specific physical activities for the opportunity for social interaction.

c. [5.8-3.1] Discuss the social benefits of participating in a self-selected physical activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2118 (November 2017).

§713. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2118 (November 2017).

Chapter 9. Grades 9—12 Cluster Level

§901. Introduction

A. The Louisiana physical education content standards were developed to provide physical education teachers, administrators, and parents a guide to understanding and interpreting physical education for the future. This new view on physical education places a greater emphasis on participating in regular physical activity (PA) and creating plans for lifelong fitness. High school physical education seeks to develop students who acquire knowledge and understand the implications and benefits of PA by providing students with the opportunity to develop physical, cognitive, and social competency through participation in team/individual sports and lifetime activities. The characteristics of high school physical education are intended to produce physically literate individuals with intentions of maintaining lifelong health (SHAPE, 2014). Based on the developmental stage of the students, as well as the goal of lifelong health, the following items should be taught, emphasized, and incorporated through a variety of lifetime activities in high school physical education: The five health-related fitness components (i.e., body composition, cardiovascular endurance, flexibility, muscular strength, and muscular endurance), FITT (i.e., frequency, intensity, time, and type) principles, and basic training principles (e.g., overload, progression, and specificity).

B. Standards provide criteria for students and other stakeholders that represent what students should know and be able to do. Therefore, with careful planning and proper assessment the following standards will show what students have achieved by graduation from high school.

C. Physical education classes support students in developing the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

D. Reading the Standards. There are 5 standards listed for high school physical education (grades 9-12). High school requirements for Louisiana students include 1.5 units of physical education, meaning two full compulsory semesters. In the standards below, level 1 represents the first year or unit of required physical education and level 2 represents the standards that should be completed in the second year or unit of physical education. Within each standard is a series of components that represent the subareas that fall within each of the given standards. Lastly, there is at least one outcome that represents each of the components. When all outcomes are completed through practice and assessment, one can infer a standard has been met. Here is how to interpret each coded outcome:

1. example: [1.HS1-3] Demonstrate competency in movement skills in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps improve health-related fitness:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard);

b. HS1 = the number listed provides the level or semester of required physical education targeted. In this case, high school level 1 is represented, as is the first required semester of physical education standards and outcomes. Other possible codes could be HS2, meaning the outcomes represented at the component level for each standard in the level 2 category;

c. following the dash (-), all things on the right side identify the component and grade-level expectation;

d. 3 = the number listed provides the component being targeted within the standard; in this case, component 3 of standard one is being targeted. (Number depends on how many components are presented in the particular standard);

e. If another number is listed on the right side of the dash (-) following the component (e.g. 3.2), that indicates more than one grade level expectation (GLE) for that specific component;

NOTE: Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2118 (November 2017).

§903. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is the development of the physical skills needed to enjoy participation in physical activities. Maturing movement fundamentals is solidifying a high school student's foundational movement. Continued skill acquisition is encouraged in a variety of activities that may be new to students, who will be expected to gain proficiency in those targeted skills.

B. Grade Level Expectations High School

1. Level 1

a. Games and Sports

i. [1.HS1-1] Demonstrate competency in movement forms (throwing, catching, dribbling, volleying, etc.) and manipulative skills (striking with an implement) in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [1.HS1-2] Demonstrate competency in activity-specific skills in at least one non-traditional physical activity (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.).

c. Health Related Fitness

i. [HS1-3] Demonstrate competency in movement skills in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps improve health-related fitness.

2. Level 2

a. Games and Sports

i. [1.HS2-1] Demonstrate competency in a different skill from Level 1 (throwing, catching, dribbling, volleying, etc.) and manipulative skills (striking with an implement) in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [1.HS2-2] Demonstrate competency in a different activity-specific skills in at least one non-traditional physical activity not demonstrated in Level 1 (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.).

c. Health Related Fitness

i. [1.HS 2-3] Demonstrate competency in advanced movement skills, different from level 1, in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps maintain health-related fitness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2119 (November 2017).

§905. Standard 2

A. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is the facilitation of the student ability to use cognitive information to enhance motor skill acquisition and performance experienced in the grade levels leading up to high school. Students use performance feedback and self-analysis to increase the cognitive understanding of a skill or principle with the goal of improving performance. As complexity increases, students will learn to transfer knowledge and cognitive skills for performance outside of school.

B. Grade Level Expectations High School

1. Level 1

a. Games and Sports
i. [2. HS1-1] Describe principles and tactics (offense, defense, etc.) to participate successfully in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits
i. [2. HS1-2] Describe and implement core concepts and principles to participate successfully in at least one non-traditional activity (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.).

2. Level 2

a. Games and Sports
i. [2.HS2-1] Apply tactics and strategies (offense, defense, etc.) in at least one team and one individual sports, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits
i. [2.HS2-2] Analyze and evaluate performance of self and others for proper technique and efficiency in at least one non-traditional activity (yoga, aquatics, rock climbing, geocaching, dancing, fishing, camping, canoeing, archery, disc golf, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2119 (November 2017).

§907. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity.

1. Intent. The intent of this standard is the development of student knowledge, skills, and willingness to accept responsibility for personal fitness. Health-relating fitness components, FITT, and training principles will guide student ability to plan and execute goals for active and healthy living. Expectations for student fitness levels should be established on a personal basis rather than setting a single standard for all students at a given grade level. Students at the HS level will solidify the ability to self-assess, plan, perform, interpret, and monitor physical activity decisions for appropriate health-enhancing levels of physical fitness.

B. Grade Level Expectations High School

1. Level 1

a. Fitness in Games and Sports
i. [3.HS1-1] Identify different health-related fitness principles needed for gameplay in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Individual Health Related Fitness
i. [3.HS1-2] Analyze current physical fitness levels and develop goals to improve or maintain a physically healthy lifestyle.

c. Lifetime Activity Pursuits
i. [3.HS1-3] Evaluate safety and risks of lifetime activities one could pursue for fitness throughout the lifespan.

d. Physical Activity and Fitness in the Community
i. [3.HS1-4] Identify physical activities and facilities in the community that one can pursue to meet fitness goals.

e. Fitness and Planning

i. [3.HS1-5] Design and implement a personal fitness plan to maintain or improve ones' personal fitness using fitness assessment scores, health-related fitness principles, FITT principle, and basic training principles.

2. Level 2

a. Fitness in Games and Sports

i. [3.HS2-1] Incorporate health-related fitness principles needed for gameplay in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Individual Health Related Fitness

i. [3.HS2-2] Evaluate goals to improve or maintain a physically health lifestyle after graduating from high school.

c. Lifetime Activity Pursuits

i. [3.HS2-3] Evaluate barriers to pursuing lifetime activities through the lifespan and strategies to overcome them.

d. Physical Activity and Fitness in the Community

i. [3.HS2-4] Develop a physical fitness and/or health plan using community resources (facilities, clubs, programs, etc.) to maintain or improve one's fitness goals.

e. Fitness and Planning

i. [3.HS2-5] Use fitness assessment scores (i.e. health-related fitness principles, FITT principle, and basic training principles), to revise personal fitness plan with the goal of maintaining a health and active lifestyle after graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2120 (November 2017).

§909. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is to reflect development of self-initiated behaviors that promote personal and group success in all physical activities that can be transferred to college, career, and life. These behaviors include, but are not limited to, sage practices, adherence to rules and procedures, cooperation, teamwork, ethical behavior, and positive social interaction and inclusion.

B. Grade Level Equivalents

1. Level 1

a. Personal Responsibility

i. [4.HS1-1] Identify benefits and barriers of activities and modify physical activity patterns as needed.

b. Social Responsibility

i. [4.HS1-2.1] Demonstrate skills such as communication, problem solving, and critical thinking while working with others in a physical activity setting.

ii. [4.HS1-2.2] Accept other values, ideas, skill level, body type, and cultural diversity while engaging with others in the physical activity setting.

c. Safety and Etiquette

i. [4.HS1-3.1] Apply safe practices that best fit the physical activity or exercise.

ii. [4.HS1-3.2] Apply proper etiquette required for the environment of a specialized activity setting.

2. Level 2

a. Personal Responsibility

i. [4.HS2-1] Demonstrate self-direction and management through records of in class and out of class physical activity choices.

b. Social Responsibility

i. [4.HS2-2] Identify ways to modify group physical education activities or behaviors to accommodate for individuals with lesser or greater skills or special needs.

c. Safety and Etiquette

i. [4.HS2-3.1] Identify unsafe practices and offer appropriate alternatives in physical activity settings.

ii. [4.HS2-3.2] Examine moral and ethical conduct in cooperative and/or competitive situations in physical education settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:2120 (November 2017).

§911. Standard 5

A. The physically literate individual will recognize the value of physical activity for health, enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to reflect the development of an awareness of the benefits and implications that physical activity provides and promote intrinsic values through personal meaning. Physical activity can be enjoyable, challenging, and fun, and provides opportunities for self-expression and social interaction. These benefits can develop self-confidence, promote positive self-image, and continue toward a healthy active lifestyle. As a result of these benefits of participation and internalization, students will begin to actively pursue life-long physical activities that meet individual needs.

B. Grade Level Expectations High School

1. Level 1

a. Health

i. [5.HS1-1] Analyze the value and benefits of a self-selected physical activity to physical health.

b. Challenge

i. [5.HS1-2.1] Identify the challenges of learning a new activity.

ii. [5.HS1-2.2] Choose an appropriate level of challenge to experience success in a physical activity.

c. Self-Expression and Enjoyment

i. [5.HS1-3] Select an activity that meets the need for self-expression.

d. Social Interaction

i. [5.HS1-4] Identify the benefits of social groups and interactions while participating in physical activities.

2. Level 2

a. Health

i. [5.HS2-1] Analyze the value and benefits of a self-selected physical activity to mental and emotional health.

b. Challenge

i. [5.HS2-2] Express the feelings associated with participating in physical activities that are optimally challenging.

c. Self-Expression and Enjoyment

i. [5.HS2-3] Explain activities that would be enjoyable for lifetime physical activity pursuits.

d. Social Interaction

i. [5.HS2-4] Evaluate opportunities for social interaction and social support in self-selected physical activities.

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§913. Standard 7

Repealed.

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Chapter 11. Glossary

§1101. Definitions

Aerobic Activity—any sustained exercise that stimulates and strengthens the heart and lungs, thereby improving the body’s use of oxygen. Examples of aerobic exercise include jogging, rowing, swimming, or cycling.

Aerobic Capacity—the maximum rate at which the body or an individual muscle can take up and use oxygen from the air; also known as maximal oxygen consumption (uptake) or VO₂ max.

Affective—traits and feelings associated with social, personal, and emotional development.

Agility—the ability to change direction quickly while the body is in motion.

Anaerobic Activity—any short-duration exercise that is powered primarily by metabolic pathways that do not use oxygen. Examples of anaerobic exercise include sprinting and weight lifting.

Body Composition—the proportion of fat-free mass (e.g., muscle, bone, organs, and tissues) to fat mass in the body.

Body Mass Index (BMI)—formula used to assess body fat based on a ratio between height and weight.

Cardiovascular Endurance—a component of health-related fitness that describes the ability of the heart, blood vessels, and respiratory system to supply oxygen and nutrients to the muscles during exercise.

Circuit Training—training that involves several different exercises or activities. This type of training allows variation in the intensity or type of activity from station to station.

Closed Skills—motor skills that are performed in an environment that is stable and predictable.

Competency—the development of sufficient skill and knowledge to enjoy participation in the activity at a recreational level. For example, a person is considered competent in performing psycho-motor skills when he/she can perform the task consistently with good technique.

Complex Movement Sequences—movements that require a combination of motor skills.

Components of Health-Related Fitness—aspects of physical fitness that help one stay healthy. Examples include:

1. *body composition*—all of the tissues that together make up the body: bone, muscle, skin, fat, and body organs;

2. *cardiovascular endurance*—the ability of the heart, lungs, and blood vessels to use and send fuel and oxygen to the body's tissues during long periods of moderate-to-vigorous activity;

3. *flexibility*—the ability to move the joints through a full range of motion;

4. *muscular skeletal endurance and strength*—the ability of the muscles to perform physical tasks over a period of time without becoming fatigued, and the amount of force a muscle can exert.

Components of Skill-Related Fitness—aspects of physical fitness that help one perform well in sports and other activities that require certain physical skills. Examples include:

1. *agility*—the ability to change body position quickly and to control one's physical movements;

2. *balance*—the ability to keep an upright posture while stationary or moving;

3. *coordination*—the ability to use senses together with body parts, or to use two or more body parts together;

4. *power*—the ability to use strength quickly;

5. *reaction time*—the ability to react or respond quickly to what one hears, sees, or feels;

6. *speed*—the ability to perform a movement or cover a distance in a short period of time.

Cool-Down—a period of light activity following exercise that allows the body to return to near resting.

Cooperative—working or acting together for a common purpose.

Coordination—the ability to use different parts of the body together smoothly and efficiently.

Defense—a means or method of defending or protecting.

Developmentally Appropriate Activities—activities that are appropriately based on a student's developmental level, age, ability level, interests, and previous experience and knowledge.

Directions—refers to movement concepts of forward, backward, sideways, right, left, up, down, clockwise and counter clockwise.

Effort—defines how the body moves and consists of three components: *time* (faster or slower), *force* (harder or softer), and *flow* (bound or free).

Emerging Pattern—the beginning stage of acquiring motor skills and knowledge.

Exercise—physical activity that is planned, structured, and repetitive, and results in the improvement or maintenance of personal fitness.

FITT—frequency, intensity, time, and type. Four key ways that activity can be manipulated to create a desired health related fitness outcome.

Field/Striking Games—games in which one team occupies positions throughout the space (field) and the other team tries to score by batting or striking an object into open space, with enough time for the hitter to run between bases (or wickets).

Fine Motor Skills—small muscle group movements used for accuracy.

Fitness Plan—a plan developed after a self-assessment of the health related components of fitness. The plan should include the principles of overload, progression, specificity, regularity, and individuality along with the FITT guidelines.

Fleeing—traveling quickly away from a pursuing person or object.

Flexibility—the ability to move the joints through the full range of motion.

Flow—indicates a constant movement rate (slow, medium or fast).

Force—the effort or tension generated through muscle contraction during a push or pull action.

Formative Assessment—an initial or intermediate evaluation that occurs throughout an instructional process in the forms of teacher observation, peer observation, rating, checklists, and so forth, and involves both the teacher and the student in reflection and review of progress. The evaluation is used to improve learning and performance and to provide feedback and enables a student to target weaknesses.

Fundamental Motor Skill—foundation movements that are precursor patterns to the more specialized, complex skills (body management skills, locomotor skills, and manipulative skills) that are used in play, games, sports, dance, gymnastics, outdoor education, and physical recreation.

GLE—grade level expectation.

Games—

1. *invasion games*—games in which teams score by moving an object into another team's territory and either shooting into a fixed target (a goal or basket) or moving the object across an open-ended target (a line);

2. *net/wall games*—team or players score by hitting a ball into open court space with accuracy so the opponent cannot return it back before bouncing once (i.e. volleyball or badminton) or twice (i.e. tennis or racquetball);

3. *striking/fielding games*—games in which players on the batting team must strike an object with accuracy to elude players on the fielding team (i.e. baseball, cricket), which provides the hitter time to run between safe destinations (i.e. bases or wickets);

4. *target games*—games in which players score by throwing or striking an object to a target, which can be opposed (i.e. shuffleboard) or unopposed (i.e. golf).

General Space—the area outside of an individual's personal space and within the boundaries of movement, such as in a classroom, field, or gym.

HFZ—healthy fitness zone.

Health-Enhancing Physical Activity—activity that, when added to baseline activity, produces health benefits. Brisk walking, jumping rope, dancing, tennis, soccer, lifting weights, climbing on playground equipment at recess, and doing yoga are all examples of health-enhancing physical activity.

Health Related Fitness—level of physiological functioning in:

1. cardiovascular endurance;
2. strength;
3. muscular endurance;

4. flexibility; and
5. body composition.

Heart Rate—the number of heartbeats occurring within a specified length of time

Implement—device used in the performance of a manipulative task.

Indicators of Health—physical, mental, emotional, and social functioning.

Individuality—the training principle that takes into account that each person begins at a different level of fitness, each person has personal goals and objectives for physical activity and fitness, and each person has different genetic potential for change.

Individual-Performance Activities—activities that do not involve teamwork.

Intrinsic Motivation—a desire to seek out new things and new challenges that is driven by personal interest or enjoyment in the task and does not rely on external pressures or a desire for reward.

Isokinetic—relating to muscular action with a constant rate of movement.

Isometric Exercise—an action in which a muscle generates tension without changing length.

Isotonic Contraction—an action in which tension remains constant, despite a change in muscle length.

Leading Pass—a throw in which a manipulative is thrown ahead of the intended receiver so that the receiver can catch the manipulative while in motion.

Lead-Up Activity/Game—an activity or modified game developed to limit the number of skills needed for successful participation.

Level—refers to the movement concepts of high, medium, and low.

Lifestyle Activities—physical activities that a person carries out in the course of daily life and that can contribute to sizeable energy expenditure.

Lifetime Activity—an activity that is suitable for participation across the lifespan.

Locomotor Skill/Movements—basic movements performed while moving the body from place to place.

MVPA—moderate to vigorous physical activity.

Manipulative—an object designed to be moved by hand as a means of developing motor skills.

Manipulative Movements—basic motor skills involving handling an object. Examples include throwing, catching, kicking, rolling, dribbling, trapping, striking, and volleying.

Manipulative Skill—movement done to or with objects with hands, or involving the feet, hands, or other parts of the body.

Mastery—showing great skill or knowledge.

Mature Form—performance of critical elements of a skill in a smooth and continuous motion.

Maximum Heart Rate (MHR)—the fastest rate at which a heart will beat in one minute.

Modified Games—games in which the rules have been modified to emphasize use of specific skills, maximize physical activity and /or practice opportunities.

Motor Skill Combinations—actions involving two or more different motor skills, including gross motor skills and fine motor skills:

1. *continuous skills*—actions repeated one after another such as basketball dribble, and do not have a clearly defined beginning and end;

2. *discrete skills*—actions unconnected to other skills such as the volleyball pass, and have a clear beginning and end.

Movement Challenge—a movement task that involves problem solving.

Movement Concepts—knowledge and understanding of movement such as body awareness (what the body can do), space awareness (where does the body move), qualities of movement (how does the body move), and relationships (with whom and with what does the body move).

Muscular Endurance—the ability of the muscles to perform physical tasks over a period of time without becoming fatigued.

Muscular Strength—the maximal force that one can exert when contracting muscles.

Musculoskeletal Fitness—a combination of muscular strength, muscular endurance, and power.

MyPlate—a food guidance system that translates nutritional recommendations into the types and amounts of food to eat each day; a widely recognized nutrition education tool. See ChooseMyPlate.gov.

Non-Locomotor Skill—movement of the body around an axis or joint (e.g., bend, stretch, twist, and reach).

Norm-Referenced Standards—making an evaluative decision based on how a performance compares with that of others, typically of the same gender, age, or class.

Offense—a means or methods of attacking or attempting to score.

Open Skill—motor skills that are performed in a changing environment.

Open Space—a space where there are no defenders/opponents.

Overloading—increasing the work done by muscles to above normal levels, but below the loads that would cause injury or distress, to improve fitness.

PACER—progressive aerobic cardiovascular endurance run. A test for cardiorespiratory fitness.

Pacing—an established rate of locomotion.

Pathways—refers to movement patterns of curved, zig-zag, or straight locomotion.

Personal Space—the area immediately surrounding a person.

Physical Activity (PA)—bodily activity that enhances or maintains physical fitness and overall health and wellness.

Physical Education—an education course that helps students develop the knowledge, fitness levels, motor skills, and personal/social skills to obtain the ultimate goal of a lifetime of physical activity and health.

Physical Fitness—the ability to carry out daily tasks with vigor and alertness, without undue fatigue, and with ample energy to enjoy leisure-time pursuits and respond to emergencies.

Physical Literacy—a disposition acquired by individuals encompassing the motivation, confidence, physical competence, knowledge, and understanding that establishes purposeful physical pursuits as an integral part of a lifestyle.

Power—the ability to move body parts swiftly while at the same time applying the maximum force on muscles.

Proficiency—the ability of the individual to demonstrate the criteria of a given task has been met.

Progression—the process of increasing the intensity, duration, frequency, or amount of activity or exercise as the body adapts to a given activity pattern.

Protocol—a system of rules or directions that explain the correct conduct and the procedures to be followed in formal situations.

Range of Motion (ROM)—varying degrees of motion around a joint.

Reaction Time—the ability to react or respond quickly to what one hears, sees, or feels.

Recess—a temporary break from structured learning where children can choose to be physically active or engage in social interactions.

Recovery Time—time or rest between exercises.

Regularity—principle that states physical activity must be performed on a regular basis to be effective and that long periods of inactivity can lead to loss of the benefits achieved during the training period.

Repetition—the number of times that an exercise is performed during one set.

Respiratory System—relating to breathing. System in the body that takes in and distributes oxygen.

Rhythmic Skills—movement that aligns to a steady pulse or musical beat. Examples include creative movement to music, multicultural dance, and jump rope.

SMART Goals—criteria for setting useful objectives. SMART goals are:

1. specific;
2. measurable;
3. attainable/achievable;
4. realistic/relevant; and
5. timely/time bound/timeline.

Scoring Rubric—descriptive scoring schemes developed by educators to guide the analysis of student work (i.e. the products or processes of student efforts).

Self-Assessment—

1. the student assesses personal progress as opposed to being assessed by the teacher or by other students. Self-assessments include:

- a. rating scales for levels of performance;
- b. participation;
- c. recording performance scores (e.g., distance, accuracy); and
- d. summary report after a series of assessment tasks (e.g., dribbling, throwing for accuracy and distance, jump shooting, physical fitness profiles), and questionnaire of likes and dislikes in activities;

2. self-assessment is a part of logs, journals, and portfolios as students evaluate personal performance or progress toward goals.

Self-Space—the space that one's body or body parts can reach without traveling away from a starting location.

Set—usually 8-12 repetitions of a given exercise.

Situational Context Clues—awareness of surroundings. For example, awareness of being followed by someone.

Skill Themes—a way of teaching children how to participate effectively in various activities by focusing on the

development of the necessary skills. Skill themes include locomotor skills, non-manipulative skills, and manipulative skills.

Skill-Related Fitness—those components of physical fitness that relate to an enhanced performance in sports: agility, balance, coordination, power, speed, and reaction time.

Skills Performance—demonstrating ability to do a specific task well; improves with practice.

Small-Sided Games—games consisting of 3-6 people per team. This allows more practice time and more physical movement for each student compared to the full version of the game. Examples include 2v2 basketball, 3v3 volleyball, and 6v6 lacrosse.

Spatial Awareness—the relation of objects in relation to one's own body.

Specificity—the training principle that states, improvement in personal fitness will occur in the particular muscles that are overloaded during physical activity or exercise. For example: working on a certain component of fitness, such as flexibility exercises, directly improves flexibility.

Speed—the ability to perform a movement or cover a distance in a short period of time.

Sportsmanship—fairness, conduct, and attitude befitting participants in sports, especially fair play, courtesy, respect for one's opponent, and graciousness in winning or losing.

Static Balance—state of equilibrium, without movement or the ability to retain one's center of mass above one's base of support in a stationary position.

Strategy—a careful plan or method for achieving a particular goal, usually over a period of time.

Stretch—

1. dynamic stretching—a form of stretching beneficial in sports using momentum from form, and the momentum from static-active stretching strength, in an effort to propel the muscle into an extended range of motion not exceeding one's static-passive stretching ability;

2. static stretch—a slow sustained stretch of a muscle for 10-30 seconds. This static stretch should be performed after warming up the body.

Strike—to come into contact with an object via hand or handled implement. To perform various striking skills. For example, to place ball away from opponent in a racket sport, to place an overhead volleyball serve, or to punt a football.

Student Project—students engage in building a scenario, determining goals, planning a program of participation to achieve outcomes, and implementing the plan to the completion of the goals. Student projects provide for a range of strategies and results including the following: the application of the processes of data collection, goal setting, planning, analysis, decision making, problem solving; development and application of skill, and knowledge to real-life situations to solve problems or create "new" interventions to reach personal goals and may include:

1. multiple objectives or outcomes;
2. combine multiple assessment options (e.g., logs, journals, and reports);
3. student autonomy in choosing procedures and reaching conclusions;
4. solo or multiple students;

5. multiple resources;
6. changes in status, behaviors or conditions;
7. authenticity;
8. performance products;
9. flexibility of time (complexity of task determines time); and/or
10. integration of multiple content areas, concepts and applications.

Summative Assessment—a final evaluation that typically come at the end of key stages, units or the year in the use of standardized tests or evaluation instruments, and provides a summary of student learning or attainment at a particular point in time. The tool is used to make judgments about student performance, and also provides quality assurance to courses.

Tactics—the art or skill of employing available means to accomplish an end.

Tagger—a person who safely and appropriately touches a person or object.

Tagging—traveling quickly toward a person or object for a safe touch.

Target Games—games in which players score by throwing or striking an object to a target.

Target Heart Rate (THR)—also known as training heart rate, THR is the range of heart rate desired during aerobic exercise to enable the heart and lungs to receive the most benefit from the workout. Calculation of THR is based primarily on age; however, physical condition, sex, and previous training also are used in the calculation. The THR can be calculated as percent intensity.

Target Heart Rate Zone—the range of above-normal activity that optimizes an increase in fitness usually between 60-80 percent of maximum heart rate.

Teamwork—a cooperative effort by the members of a group or team to achieve a common goal.

Training Principle—

1. overload;
2. specificity;
3. progression;
4. reversibility; and
5. diminishing return.

Trajectory—the path followed by an object moving through space.

Transition—an act or process of passing from one state, stage, or place to another.

Vigorous Activity—activity full of physical or mental strength or active force carried out forcefully and energetically.

Volley—a shot or kick made by hitting an object before the object touches the ground.

Warm-up—a variety of low intensity activities designed to prepare the body for more vigorous activities.

Weight-Bearing Exercise—any activity done while on one's feet and legs, and that works the muscles and bones against gravity.

Weight Transfer—movement of body weight from one body part to another.

Wellness—an overall state of being in good health—physical, mental, emotional, spiritual, and social health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2121 (November 2017).

§1103. Standard 2

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2125 (November 2017).

§1105. Standard 3

Repealed.

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§1107. Standard 4

Repealed.

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§1109. Standard 5

Repealed.

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§1111. Standard 6

Repealed.

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§1113. Standard 7

Repealed.

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Chapter 15. Grade-Level Expectations

§1501. Kindergarten Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2125 (November 2017).

§1503. Grade 1 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

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§1505. Grade 2 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2125 (November 2017).

§1507. Grade 3 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1509. Grade 4 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1511. Grade 5 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1513. Grade 6 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1515. Grade 7 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1517. Grade 8 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

§1519. High School Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:2126 (November 2017).

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Executive Director

1711#015

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:XI.Chapter 36)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*:

§3601, Office of Juvenile Justice Schools; §3603, Student Information System; §3605, Specialized Accountability System; §3607, Monitoring and Intervention; §3609, Assessments and Counseling; and §3611, Transmission of Cumulative Records. Act 500 of the 2016 Regular Legislative Session requires BESE to convene a mutual accountability team tasked with recommending a specialized accountability program for schools operated by the Office of Juvenile Justice (OJJ) that is consistent with the accountability program mandated for all schools in Louisiana and contains appropriate considerations for schools operated by the OJJ. The revisions relate to the mutual accountability team recommendations regarding a specialized accountability program for schools operated by OJJ.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 36. Specialized Accountability for Office of Juvenile Justice (OJJ) Schools

§3601. Office of Juvenile Justice Schools

A. For the purposes of this Chapter:

OJJ Schools—all schools and programs providing educational services to students in secure care facilities operated by, or contracted under, the authority of the state Department of Public Safety and Corrections, Youth Services, Office of Juvenile Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2126 (November 2017).

§3603. Student Information System

A. OJJ shall maintain educational records for all students and shall report them, as required, to the state Department of Education. At a minimum, the student information system selected by the OJJ district shall provide for collection and reporting of the following data elements:

1. enrollment records;
2. attendance records;
3. diploma pathway selection;
4. Jump Start credentials;
5. local transcripts;
6. student grades;
7. TABE score;
8. state assessment scores (LEAP, EOC, ACT, WorkKeys);
9. assessments identified in other recommendations;
10. discipline incidents specific to educational settings and with educational staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2126 (November 2017).

§3605. Specialized Accountability System

A. The schools operated by OJJ shall participate in the state’s accountability system for all public alternative schools as specified in this Bulletin.

B. In addition to the state accountability system and state report card, the department will annually publish specialized school and district report cards for schools operated by OJJ beginning with the 2017-2018 school year.

C. Unless otherwise indicated in the measures listed in Subsection D of this Section, students must meet the full academic year definition to be included in calculations. Students meet the full academic year definition if they are enrolled on or before October 1 and remain enrolled in the school until the final state assessment or the end of the regular academic year.

D. The specialized school and district report cards for OJJ will include results from the following measures:

1. growth measures from TABE average scaled scores in reading and mathematics:

a. scores closest to student entry and the end of the regular academic year shall be used based on documented data submitted to the LDE;

2. percentage of students earning a high school diploma:

a. students who are enrolled in grade 12 on October 1 but exit prior to the end of the year with a diploma will be included;

b. student inclusion will not be based on graduation cohort membership;

3. percentage of students earning a high school equivalency diploma (HiSET):

a. students who are enrolled on October 1 but exit prior to the end of the year with a HiSET will be included;

b. student inclusion will not be based on graduation cohort membership;

4. percentage of students in grades 11 and 12 who earn a Jump Start credential/IBC;

5. percentage of students in high school grades who earn a minimum of 2.5 Carnegie credits per semester;

6. percentage of students who participate in and meet program requirements of the Jobs for America's Graduates (JAG) program based on documented data submitted to the LDE;

7. subgroup performance for students with disabilities for all measures described in this Section.

E. At the end of each school year, the results of measures identified in this Section will be reviewed and specific annual targets for improvement will be developed by the LDE for implementation in the next school year. The LDE will review the specialized report card at the end of each year and adjust elements and targets as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2126 (November 2017).

§3607. Monitoring and Interventions

A. A special advisor shall be assigned to the OJJ by the LDE to assist schools with implementation of academic improvement efforts.

1. The special advisor shall have extensive experience working with schools in adjudicated settings.

2. The special advisor shall work directly with the OJJ director of education, as well as the school principals, and designated LDE staff.

B. Monitoring

1. The LDE shall conduct a program of regular, in-person monitoring of OJJ schools.

a. The LDE shall conduct at least one in-person monitoring visit for each OJJ school per year.

b. The LDE shall develop a rubric for use as a monitoring tool during annual monitoring visits.

C. OJJ School Improvement

1. During the 2017-2018 school year, the OJJ special advisor and OJJ shall jointly review each school's results and monitoring visits data to collaboratively develop a comprehensive school improvement plan to be implemented no later than the 2018-2019 school year.

2. Beginning in the 2018-2019 school year, the LDE shall assign a progress label to each OJJ school based on monitoring results and the results measured by the specialized report card. The progress label shall indicate which schools are considered "academically unacceptable" for the purposes of this Section.

3. The LDE shall require supports, interventions, and remedies for any OJJ school earning a progress label indicating the school is academically unacceptable. The intensiveness of the supports, interventions and remedies developed by the LDE shall escalate for every year that a school continues to earn a progress label indicating the school is academically unacceptable.

4. Such supports, interventions, and remedies may include, but shall not be limited to:

a. development and implementation of a revised school improvement plan approved by the special advisor;

b. reconstitution of the school subject to the approval of BESE. Reconstitution may include, but shall not be limited to required actions related to school leadership, personnel, structure, operations, budgeting, program offerings, professional development, and contracting with one or more external partners.

D. Pursuant to R.S. 17:10.9(C)(b)(3), the LDE shall submit an annual report to the Juvenile Justice Reform Act Implementation Commission and the House and Senate Committees on Education detailing any supports, interventions, and remedies implemented for each OJJ school earning a progress label indicating the school is academically unacceptable. The report shall also be made available on the LDE website.

E. School Improvement Available to All Schools

1. In addition to the accountability provided above, OJJ schools shall participate in the statewide accountability system detailed in this bulletin applicable to all other public alternative schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2127 (November 2017).

§3609. Assessments and Counseling

A. Students shall be assigned to appropriate educational programs and schools including high school diploma programs, industry-based certifications approved by BESE, and recognized high school diploma equivalent programs.

B. Student and parent interests may be considered when assigning youth to, and transferring youth among, educational programs and schools.

C. A student may not be removed from a program leading to a high school diploma without the consent of the student's parent or legal custodian as documented in the student's individual learning plan.

D. No later than August 1, 2017, the OJJ shall develop and implement a standard enrollment interview protocol for all students who are assigned to OJJ schools. The protocol shall be developed jointly with the special advisor and shall be approved by the LDE.

E. Interview protocols shall be used to develop individual learning plans for students, and shall be kept on file for each student. The interview protocols and individual learning plans shall be available to the special advisor during visits to the site and to the LDE monitoring team during annual monitoring site visits. The protocols and plans shall be designed to:

1. assure that students are assigned to appropriate educational programs and schools offering high school diplomas, BESE-approved programs leading to IBCs, and high school diploma equivalency programs;

2. collect student and parent interests to inform the assignment or transfer of students to programs and schools; and

3. verify consultation with and consent of parents prior to the removal of a student from a program leading to a high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2128 (November 2017).

§3611. Transmission of Cumulative Records

A. OJJ shall request cumulative records for students upon entry to an OJJ school.

B. OJJ shall send cumulative records to receiving local education agencies within two business days from when a request for records is received. In the case that an unforeseen circumstance creates a delay, OJJ will notify the receiving local education agency and provide a date by which the records will be transmitted. Such records shall include:

1. student records from previous schools in possession of OJJ;
2. individual learning plans developed by OJJ;
3. IAP form (if applicable);
4. report cards;
5. test results;
6. IEP forms/evaluations (if applicable);
7. individual graduation plan;
8. discipline records (as permitted by law);
9. work detail forms;
10. SBLC forms (if applicable);

11. transcripts/certificates/HiSET/diploma;

12. quarterly progress reports.

C. The records shall not include information that is prohibited by laws and regulations guaranteeing legal rights and protections for adjudicated students.

D. Requests for records and dates indicating transfer to cumulative folders to receiving schools shall be kept on file and available for review by the special advisor and monitoring teams.

E. The OJJ shall notify the LDE when a receiving local education agency does not enroll a student who transfers from an OJJ school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2128 (November 2017).

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1711#016

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood
Care and Education Network
(LAC 28:CLXVII.313, 503, and 513)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §313, Academic Approval for Type III Early Learning Centers, §503, Coordinated Observation Plan and Observation Requirements, and §513, Informational Metrics of Best Practices. Bulletin 140 is a set of regulations focused specifically on early childhood community networks, which ensure one organization within each local community network coordinates across programs, set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families, and establish a unified quality and improvement system. The first year of implementation of policy contained in Bulletin 140 was a learning year and 2016-2017 was the second year of the unified quality rating and improvement system.

The revisions reflect small shifts based on engagement with early childhood programs and key stakeholders. First, the revisions align group size descriptions in Bulletin 140 with those in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. Second, the revisions connect the early childhood ancillary certificate requirement for all lead teachers by 2019 in publicly-funded centers to the academic approval process. Third, the revisions clarify that no observer will be excluded from the accountability system until they have been inaccurate more than half the time for two semesters, or at least two observations. Fourth, the

revisions provide a process for centers not open during the typical school day to receive academic approval.

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. - B. ...

C. Full-Day or Non-Full-Day Type III Early Learning Centers

1. For purposes of this Bulletin, a type III early learning center shall be either a full-day center or a non-full-day center.

a. A full-day center provides care and instruction aligned with a typical school day that consists of at least six continuous hours per day or more than 20 hours per week.

b. A center that is not a full-day center is a non-full-day center.

D. Non-Full-Day Type III Early Learning Centers

1. Initial Academic Approval for Non-Full-Day Centers. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center that is applying for a new type III license and that does not provide full-day care must submit a signed copy of the current program partner assurances for non-full-day type III early learning centers to the department, thereby agreeing to the following:

a. in the event the center begins to provide full-day care, the center will provide written notice to the department, and sign new program partner assurances for full-day early learning centers, within 10 business days of the change to full-day care; and

b. by signing program partner assurances for full-day type III early learning centers, the center will be agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new non-full-day type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

3. Renewal of Academic Approval. Academic approval shall be renewed annually for any non-full-day type III early learning center if the center:

a. has current academic approval; and

b. has submitted a signed copy of the current annual program partner assurances for non-full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

E. Initial Academic Approval for an Applicant for a New Full-Day Type III Early Learning Center License for Fiscal Years 2016-2017, 2017-2018, and 2018-2019

1. In order to obtain the initial academic approval required to be licensed as a full-day type III early learning center, a center applying for a new full-day type III license must:

a. submit a signed copy of the current program partner assurances for full-day type III early learning centers to the department, thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new full-day type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

F. Initial Academic Approval for an Applicant for a New Full-Day Type III Early Learning Center License for Fiscal Years 2019-2020 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a full-day type III early learning center, a full-day center applying for a new full-day type III license must:

a. submit a signed copy of the current program partner assurances for full-day type III early learning centers to the department, thereby certifying that:

i. the center will comply with the provisions of this bulletin, which include:

(a) membership in the corresponding community network, as provided in Chapter 3;

(b) participation in the early childhood care and education accountability system, as provided in Chapter 5; and

(c) participation in the coordinated enrollment process, as provided in Chapter 7;

ii. all lead teachers at the center have:

(a) an early childhood ancillary certificate issued by the BESE; or

(b) are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start day as a lead teacher.

2. An applicant for a new full-day type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

G. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for the Fiscal Year 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin; and
- c. has submitted a signed copy of the current annual program partner assurances for full-day type III early learning centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:
 - i. membership in the corresponding community network, as provided in Chapter 3;
 - ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and
 - iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Full-day type III early learning centers shall annually submit a signed copy of the annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

H. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Year 2018-2019

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day type III early learning centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:
 - i. membership in the corresponding community network, as provided in Chapter 3;
 - ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and
 - iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Full-day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever is earlier.

I. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Years 2019-2020 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day early learning centers to the department, thereby certifying that:

i. the center will comply with the provisions of this bulletin, which include:

- (a). membership in the corresponding community network, as provided in Chapter 3;
 - (b). participation in the early childhood care and education accountability system, as provided in Chapter 5; and
 - (c). participation in the coordinated enrollment process, as provided in Chapter 7; and
- ii. all lead teachers at the center have:
- (a). an early childhood ancillary certificate issued by BESE; or
 - (b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher.

2. Full day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

J. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

K. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

L. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

M. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

- a. renewal of academic approval for the center;
- b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or
- c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

- a. violations of any provisions of this bulletin;
- b. failure to timely comply with a corrective action plan provided by the department;
- c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017).

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. ...

B. CLASS® Observation Requirements

1. - 5.b. ...

c. After two observation periods, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if 50 percent or more of the domain-level results are different by more than one point for the community network observer, the department may determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

B.5.c.i. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017).

§513. Informational Metrics of Best Practices

A. - A.1. ...

a. to achieve gold-level ratios, publicly-funded sites use the following teacher/child ratios and meet group sizes requirements in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

Age	Teacher/Child Ratio
Birth to 1 year	1:4
1 year to 2 years	1:4
2 years to 3 years	1:6
3 years to 4 years	1:8
4 years to 5 years	1:10

b. to achieve silver-level ratios, publicly-funded sites use the following teacher/child ratios and meet group sizes requirements in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

Age	Teacher/Child Ratio
Birth to 1 year	1:4
1 year to 2 years	1:6
2 years to 3 years	1:8
3 years to 4 years	1:10
4 years to 5 years	1:12

c. to achieve bronze-level ratios, publicly-funded sites use at least the minimum teacher/child ratios and group size requirements in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

A.2. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1875 (November 2016), LR 43:2131 (November 2017).

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1711#017

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2318, 2319, 2335, 2345, 2353, 2355, and 3113)

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*: §2318, The TOPS University Diploma; §2319, The Career Diploma; §2335, Computer/Technology Education; §2345, Foreign Languages; §2353, Mathematics; §2355, Music; and §3113, Work-Based Learning. The revisions update the science and social studies requirements for the TOPS University Diploma; update the mathematics and social studies requirements for the Career Diploma; update the course offerings for computer/technology education, foreign languages, mathematics, and music; and update work-based learning requirements.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.3.c.iii.(f). ...

- (i). AP environmental science;
- (ii). IB environmental systems;

(g). one of:

- (i). physics I;
- (ii). IB physics I;
- (iii). AP physics I;

(h). one of:

- (i). AP physics C: electricity and magnetism;
- (ii). AP physics C: mechanics;
- (iii). IB physics II;
- (iv). AP physics II;

(i). one of:

- (i). biology II;
- (ii). AP biology;
- (iii). IB biology I;
- (iv). IB biology II;

d. social studies—four units:

i. - iii.(g). ...

- (h). AP psychology;

3.e. - 4.a.ii. ...

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

C.5. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017).

§2319. The Career Diploma

A. - C.1.b.ii.(h). ...

- (i). discrete mathematics;
- (j). probability and statistics; or
- (k). course(s) developed by the LEA and approved by BESE.

c. - h. ...

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. - b.ii.(i). ...

- (j). probability and statistics; or
- (k). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

(l). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as 3 math credits;

c. ...

- i. 1 unit of biology;
- ii. 1 unit from the following:
 - (a). chemistry I;
 - (b). physical science;
 - (c). earth science;
 - (d). agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

- (e). environmental science;
- (f). any AP or IB science course;

d. social studies—2 units:

i. ...

- (a). U.S. history;
- (b). AP U.S. history;
- (c). IB history of the Americas I;

ii. 1 unit of the following:

- (a). civics;
- (b). government;
- (c). AP U.S. government and politics;

comparative; or

- (d). AP U.S. government and politics: United States;

e. - h. ...

3. To complete a career area of concentration for the career diploma, students shall meet the minimum requirements for graduation including four elective primary credits in the career major and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology applications courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017).

Subchapter B. Academic Programs of Study
§2335. Computer/Technology Education

A. Computer/technology course offerings shall be as follows.

Course Title(s)	Units
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Productions	1/2 or 1
Web Mastering	1/2
Independent Study in Technology Application	1

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:2220 (August 2013), LR 43:2133 (November 2017).

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Mandarin Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
Hindi I, II, III, IV	1 each
Portuguese I, II, III, IV	1 each
Vietnamese I, II, III, IV	1 each
IB Language ab initio: Arabic	1
IB Language B: Arabic	1
AP Chinese Language and Culture	1

Course Title(s)	Units
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
IB Language ab initio: French	1
IB Language B: French	1
IB Language ab initio: Spanish	1
IB Language B: Spanish	1
IB Language ab initio: German	1
IB Language B: German	1
IB Language ab initio: Chinese	1
IB Language B: Chinese	1
IB Language ab initio: Italian	1
IB Language B: Italian	1
IB Language ab initio: Japanese	1
IB Language B: Japanese	1
IB Classical Language	1

B. ...

1. provisional level certification from the American Sign Language Teachers Association (ASLTA); or
2. certificate of interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. certificate of transliteration (CT) from the RID; or
4. certified deaf interpreter certification (CDI) from the RID; or
5. level IV or V certificate of competence from the National Association of the Deaf (NAD); or
6. level IV or V official documentation of the videotaped version of the educational interpreter performance assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2133 (November 2017).

§2353. Mathematics

A. ...

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1

Course Title(s)	Units
IB Further Mathematics HL	1
IB Mathematics HL	1

B. The mathematics course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics (Literacy)	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Probability and Statistics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:1063 (July 2016), LR 43:2134 (November 2017).

§2355. Music

A. - B. ...

C. Approval by the local school board is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 39:2221 (August 2013), LR 40:999 (May 2014), LR 40:2528 (December 2014), LR 43:2134 (November 2017).

Chapter 31. Career and Technical Education (CTE)

§3113. Work-Based Learning

A. - G.2. ...

3. Each teacher-coordinator for work-based programs must maintain on file a class organization report.

G.4. - H.6. ...

NOTE: Refer to career and technical education course offerings for prerequisites and requirements for specific work-based programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:280 (February 2007), LR 39:2228 (August 2013), LR 43:2134 (November 2017).

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1711#018

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel
(LAC 28:CXXXI.344)

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*: §344, Early Childhood Ancillary Certificate. In January 2015, BESE approved the establishment of the early childhood ancillary certificate as the minimum credential for lead teachers working in type III early learning centers. The early childhood ancillary certificate can be earned by demonstrating the completion of one of the following qualifying credentials: child development associate (CDA) approved by the Council for Professional Recognition and a high school diploma or equivalent; technical diploma/certificate in technical studies in an early childhood related field from an accredited technical or community college; career diploma approved by the Louisiana Pathways Career Development System; associate degree in an early childhood-related field from a regionally-accredited college or university; or bachelor's degree or higher from a regionally-accredited college or university. Current BESE policy provides that, beginning in January 2018, teachers pursuing the early childhood ancillary certificate through a CDA or technical diploma must complete their coursework from a BESE-approved provider. Revisions to Bulletin 746 provide child care teachers additional time and flexibility to obtain early childhood ancillary certificate from the best available preparation provider while maintaining a near-term expectation that child care teachers earn this professional credential.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§344. Early Childhood Ancillary Certificate

A. The early childhood ancillary certificate authorizes an individual to teach in a publicly-funded early learning center serving children ages birth to five as defined in R.S. 17:407.33, unless program requirements mandate a professional-level certificate. After June 30, 2019, an individual shall have, at a minimum, an early childhood ancillary certificate to serve as a lead teacher in a publicly-funded early learning center.

B. Early Childhood Ancillary Certificates Issued

1. Eligibility Requirements. An early childhood ancillary certificate shall be issued to an applicant who submits evidence of one of the following to the LDE:

- a. a bachelor's degree or higher from a regionally-accredited college or university;
- b. a current child development associate (CDA) credential, either infant/toddler or preschool, awarded by the Council for Professional Recognition and a high school diploma or equivalent;

i. after July 1, 2018, all 120 clock hours of coursework for the CDA must be earned from a BESE-approved early childhood ancillary certificate program for initial CDA credentials:

(a). an individual who has completed 36 or more clock hours of coursework for the CDA by July 1, 2018 may complete the remaining coursework for the CDA from any CDA provider;

(b). an individual who has not completed 36 or more clock hours of coursework for the CDA by July 1, 2018 must earn all 120 hours of coursework for the CDA from a BESE-approved early childhood ancillary certificate program;

(c). after July 1, 2018, individuals may submit a request to the department to waive the requirement that all 120 hours of coursework for the CDA be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity;

ii. after July 1, 2018, applicants who obtained a CDA or completed coursework from a provider that is not BESE-approved while residing in another state shall submit additional documentation of program components for approval;

iii. coursework counting towards the early childhood ancillary certificate shall include at least 10 training hours in each of the following subject areas:

(a). planning and implementing a safe and healthy learning environment;

(b). advancing children's physical and intellectual development;

(c). supporting children's social and emotional development;

(d). building productive relationships with families;

(e). managing an effective program operation;

(f). maintaining a commitment to professionalism;

(g). observing and recording children's behavior;

(h). understanding principles of child development and learning;

c. an associate degree in an early childhood related field from a regionally accredited college or university;

d. a technical diploma or certificate of technical studies in an early childhood related field from an accredited technical or community college:

i. after July 1, 2018, all coursework for technical diplomas and certificates of technical studies must be earned from a BESE-approved provider;

ii. after July 1, 2018, individuals may submit a request to the department to waive the requirement that coursework be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity;

e. a career diploma that has been approved by the Louisiana Pathways Career Development System, and in which coursework began prior to July 1, 2018.

2. Renewal Guidelines

a. For individuals meeting eligibility requirements with a CDA, the early childhood ancillary certificate shall be

valid for a three-year period. The ancillary certificate may be renewed by the LDE at the request of the applicant's employer with submission of either documentation of a renewed CDA credential, awarded by the Council for Professional Recognition, or documentation of:

i. either 4.5 continuing education units, a 3 credit-hour course, or 45 clock hours of approved training or professional development in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

b. For individuals meeting eligibility requirements with a bachelor's degree or higher, associate degree, technical diploma, certificate of technical studies, or career diploma, the early childhood ancillary certificate shall be valid for a three-year period. The certificate may be renewed by the LDE at the request of the applicant's employer with submission of documentation of:

i. either 4.5 continuing education units, a 3 credit-hour course, or 45 clock hours of training in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17:6(A)(10), (11), and (15), R.S. 17:7(6), and R.S. 17:407.81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:917 (May 2015), amended LR 43:2135 (November 2017).

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Executive Director

1711#019

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Document and Notification Submittal
(LAC 33:I.1203, 4701, 4703, 4705, 4711, and 5707;
III.919, 1410, and 2132; V.1907, 2271, and 4999;
VI.103,403, 501, 502, 505, 507, 509, 515, 521, 607,
705, 711, 801, 803, 911, and 913; IX.7313; and
XI.301, 303, 507, 701, 703, 715, 903, 905, 907, 1111,
1113, 1123, 1129, 1131, 1139, 1305, and 1309)(MM019)

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 various regulations, LAC 33:I, III, V, VI, IX and XI (MM019).

In response to Act 378 of the 2016 Regular Legislative Session, the Department of Environmental Quality has created the Office of Environmental Assessment. This office absorbs functions and units from the Office of Environmental Compliance and the Office of Environmental Services. Due to the creation of the new office, this rulemaking revises references instructing where documents and notifications must be submitted. The basis and rationale for this Rule are to enact revisions created by Act 378 of the 2016 Regular

Legislative Session. 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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 12. Requests for Review of Environmental Conditions

§1203. Procedure for Submittal of Request

A. - B.10. ...

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October 2007), LR 35:2178 (October 2009), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2136 (November 2017).

Subpart 3. Laboratory Accreditation

Chapter 47. Louisiana Environmental Laboratory Accreditation Program (LELAP) State Accreditation Requirements

§4701. Accreditation Process

A. The department accreditation process comprises four basic steps:

1. the submittal to the Office of Environmental Assessment of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2136 (November 2017).

§4703. Application for Accreditation

A. ...

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Environmental Assessment, using the current application provided by the department. This application shall include all requested information and be accompanied by the appropriate application fee. Supplemental information may be required.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2136 (November 2017).

§4705. Categories of Accreditation

A. At the time of application, each applicant shall clearly identify both the matrix (matrices) and the test categories for which accreditation is sought. A copy of each relevant test method documentation and the requisite equipment for the method shall be available at the laboratory. A current list of approved methods for each parameter/analyte shall be maintained by the Office of Environmental Assessment and shall be included as part of the application package. In cases where a method used by the laboratory is not listed, the laboratory shall submit documentation that verifies that the results obtained from the method in use are equal to or better than those results obtained from the approved method(s). The department shall review the data submitted by the laboratory and shall notify the laboratory in writing within 60 calendar days regarding whether the method is acceptable or unacceptable as an alternate method of analysis.

B. - B.11. ...

C. An accredited laboratory may request the addition of a matrix (matrices) and test category (categories) to its scope of accreditation at any time. Such a request shall be submitted on the current application to the Office of Environmental Assessment. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017).

§4711. Proficiency Testing Participation

A. - E. ...

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Environmental Assessment at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Environmental Assessment, along with the submittal of corrective action proficiency sample test results. The laboratory shall report only the analytes for which corrective action was required.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017).

Chapter 57. Maintenance of Accreditation

§5707. Changes in Laboratory Operation

A. Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the Office of Environmental Assessment within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017).

Part III. Air

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§919. Emissions Inventory

A. - D. ...

1. If a facility no longer meets any applicability criteria under Paragraph A.1 of this Section for one full calendar year, the owner or operator may request approval from the department in writing to discontinue submission of an emissions inventory. All such requests shall be submitted to the Office of Environmental Assessment.

D.1.a. - I. ...

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), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 32:241 (February 2006), LR 33:2084 (October 2007), LR 37:3222 (November 2011), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017).

Chapter 14. Conformity

Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§1410. Criteria for Determining Conformity of General Federal Actions

A. - A.5.a. ...

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions that, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the Office of Environmental Assessment information on all known projects or other actions that may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of man-hours required to perform and document the determination; or

A.5.a.ii. - D. ...

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 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2751 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017).

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. - B.5. ...

6. The regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the stage II vapor recovery system:

6.a. - 8....

9. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Assessment within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. - D. ...

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. - 2....

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at

any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. - I. ...

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008), LR 34:2397 (November 2008), LR 37:1147 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2138 (November 2017).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 19. Tanks

§1907. Containment and Detection of Releases

A. - G.4.c. ...

H. The following procedures must be followed in order to request a variance from secondary containment.

1. The Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

H.1.a. - K.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), amended by the Office of the Secretary, Legal Division, LR 43:1142 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2138 (November 2017).

Chapter 22. Prohibitions on Land Disposal

Subchapter B. Hazardous Waste Injection Restrictions

§2271. Exemptions to Allow Land Disposal of a

Prohibited Waste by Deep Well Injections

A. - U.5. ...

V. Corrective Action for Wells in the Area of Review

1. The petitioner shall submit a plan to the Office of Environmental Assessment outlining the protocol used to:

V.1.a. - Z. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005), LR 33:2110 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2138 (November 2017).

Chapter 49. Lists of Hazardous Wastes

Editor's Note: Chapter 49 is divided into two Sections: category I hazardous wastes, which consist of hazardous wastes from nonspecific and specific sources (F and K wastes), acute hazardous wastes (P wastes), and toxic wastes (U wastes) (LAC 33:V.4901); and category II hazardous wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. - Appendix E. ...

A. - B.1.a. ...

b. All data obtained to fulfill the required testing must be submitted to the Office of Environmental Assessment within 60 days after each sampling event.

1.c. - 3.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:1021 (June 2008), LR 34:1613 (August 2008), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), LR 40:1692 (September 2014), LR 42:2179 (December 2016), LR 43:1149 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2139 (November 2017).

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 1. General Provisions and Definitions

§103. Regulatory Overview

A. - A.1. ...

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), amended LR 26:2510 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2136 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2139 (November 2017).

Chapter 4. PRP Search, Notification, and Demand for Remediation

§403. Notification to Provide Information

A. The Office of Environmental Assessment shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2139 (November 2017).

Chapter 5. Site Remediation

§501. Remedial Actions

A. ...

B. The Office of Environmental Assessment shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2139 (November 2017).

§502. Role of PRPs in Remedial Actions

A. The Office of Environmental Assessment may, at its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007),

amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2139 (November 2017).

§505. Removal Action

A. - A.3. ...

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

5. ...

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2140 (November 2017).

§507. Remedial Investigation

A. - B. ...

C. To complete a RI the Office of Environmental Assessment, or PRPs as directed by the department, shall provide the following.

1. - 3. ...

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

C.4.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2140 (November 2017).

§509. Corrective Action Study

A. - C.5. ...

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the

results of all required CAS activities shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2140 (November 2017).

§515. Revisions to the Final Remedy

A. - B. ...

1. notify the Office of Environmental Assessment that a modification is necessary;

2. - 3. ...

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment shall:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2140 (November 2017).

§521. Post-Remedial Management

A. - A.2. ...

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of Environmental Assessment for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

1. - 8. ...

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require

revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

C.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2140 (November 2017).

Chapter 6. Cost Recovery

§607. Determination of Remedial Costs; Demand to PRPs

A. Timing. The Office of Environmental Assessment may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2141 (November 2017).

Chapter 7. Settlement and Negotiations

§705. Negotiations

A. - B.4. ...

C. Negotiations after Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary,

Legal Affairs and Criminal Investigations Division, LR 43:2141 (November 2017).

§711. Mixed Funding

A. - B. ...

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

C.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2141 (November 2017).

Chapter 8. Public Information and Participation

§801. Public Information

A. - B. ...

1. Information Repositories. The Office of Environmental Assessment may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2141 (November 2017).

§803. Public Participation

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. - 1.b....

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment.

a. ...

b. Prior to any public comment period, the Office of Environmental Assessment, or PRPs as directed by the

department, shall place a copy of the document being reviewed in a public location near the site.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), repromulgated LR 39:85 (January 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2141 (November 2017).

Chapter 9. Voluntary Remediation

§911. Application Process

A. Voluntary Remedial Investigation Applications. Prior to performing a remedial investigation and submission of the application in Subsection B of this Section, the applicant may submit a voluntary remedial investigation application for review and approval by the administrative authority, which consists of the following:

1. a voluntary remedial investigation application Form VCP001, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

2. - 2.f. ...

B. Voluntary Remediation Applications. Prior to implementation of a voluntary remedial action at a site, applicants must submit a voluntary remediation application to the Office of Environmental Assessment for review and final approval. The application shall consist of the following:

1. a voluntary remediation application Form VCP002, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

B.2. - C.1. ...

2. After the application is accepted for public review and before the beginning of the public comment period provided in Subsections D and F of this Section, the applicant shall provide the number of copies of the accepted application specified by the administrative authority to the Office of Environmental Assessment.

3. ...

D. Public Notice. Upon acceptance of the voluntary remediation application, as set forth in Subsection C of this Section, the applicant must place a public notice of the proposed voluntary remedial action plan in the local newspaper of general circulation in the parish where the voluntary remediation site is located. The public notice shall be a single classified advertisement at least 4 inches by 6 inches in size in the legal or public notices section. The applicant must provide proof of publication of the notice to the Office of Environmental Assessment prior to final approval of the plan. The public notice shall:

1. - 2. ...

3. indicate that comments shall be submitted to the Office of Environmental Assessment (including the contact

person, mailing address, and physical address), as well as indicate the deadline for submission of comments;

4. - 5. ...

E. Direct Notice to Landowners. Within five days of the public notice in Subsection D of this Section, the applicant must send a direct written notice of the voluntary remedial action plan to persons owning immovable property contiguous to the voluntary remediation site. This notice shall be sent to persons listed as owners of the property on the rolls of the parish tax assessor as of the date on which the voluntary remediation application is submitted. The notice must be sent by certified mail and contain the same information that is provided in the public notice. Return receipts or other evidence of the receipt or attempted delivery of the direct notice must be provided to the Office of Environmental Assessment prior to final approval of the plan.

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the public notice and shall be fully considered by the administrative authority prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2139 (October 2007), LR 34:1901 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2142 (November 2017).

§913. Completion of Voluntary Remedial Actions

A. - D. ...

1. the applicant provides written notice to the Office of Environmental Assessment at least 15 days in advance of the termination;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2140 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2142 (November 2017).

Part IX. Water Quality

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids

Subchapter A. Program Requirements

§7313. Standard Conditions Applicable to All Sewage Sludge and Biosolids Use or Disposal Permits

A. - C.3.b. ...

c. The regulations and guidelines on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Assessment.

D. - D.8.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2406 (November 2007), amended LR 35:941 (May 2009), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2143 (November 2017).

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. - A.2. ...

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the Office of Environmental Assessment of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

B. New UST Systems. Upon the effective date of these regulations, all owners of new *UST systems* (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an underground storage tank registration form (UST-REG-01). Registration forms shall be filed with the Office of Environmental Assessment. The following registration requirements apply to new UST systems.

1. - 2. ...

C. All UST system owners or operators shall comply with the following requirements.

1. Any person who sells a UST system shall so notify the Office of Environmental Assessment in writing within 30 days after the date of the transaction. A person selling a UST must also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

2. Any person who acquires a UST system shall submit to the Office of Environmental Assessment an amended registration form within 30 days after the date of acquisition.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006), LR 33:2171 (October 2007), LR 34:2116 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2143 (November 2017).

§303. Standards for UST Systems

A. - C.1. ...

2. The department may grant an extension to these dates only in the event that the UST or UST system installation is delayed due to adverse weather conditions or other unforeseen, unavoidable circumstances. A written contract alone does not qualify as an unforeseen, unavoidable circumstance. In order to obtain an extension, the UST owner must submit a written request to the Office of Environmental Assessment, describing the circumstances that have caused the installation delay.

D. - D.6.b.i.(e). ...

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation critical-junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph D.6.a of this Section, all owners and operators must provide a certification of compliance on the UST Registration of technical requirements form (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Assessment.

c. Notification of Installation. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning installation of a UST system by:

i. ...

ii. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax seven days prior to commencing the installation and before commencing any *installation-critical juncture* (as defined in LAC 33:XI:1303);

D.6.c.iii. - E.6. ...

a. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Assessment within 30 days after the UST system is upgraded. The owner and operator must certify compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate

number of the individual exercising supervisory control over those steps in the upgrade that involve repair-critical junctures or installation-critical junctures (as defined in LAC 33:XI.1303) of a UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2171 (October 2007), LR 34:2116 (October 2008), LR 35:1493 (August 2009), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43: 2143 (November 2017).

Chapter 5. General Operating Requirements

§507. Repairs Allowed

A. ...

1. Except in emergencies, the owner and operator shall notify the Office of Environmental Assessment in advance of the necessity for conducting a repair to a UST system.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43: 000 (November 2017).

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§701. Methods of Release Detection

A. - A.8.a. ...

b. The release-detection method has been approved by the Office of Environmental Assessment on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs A.3-8 of this Section. In comparing methods, the Office of Environmental Assessment shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed on its use by the Office of Environmental Assessment.

B. - B.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1072 (May 2005), amended by the Office of the Secretary, Legal Affairs

Division, LR 33:2172 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017).

§703. Requirements for Use of Release Detection

Methods

A. - C.2.e.ii. ...

iii. obtain approval from the Office of Environmental Assessment to use the alternate release detection method before the installation and operation of the new UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:1400 (July 2008), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017).

§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

A. - C.1.f. ...

2. Within 20 days after release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit a report to the Office of Environmental Assessment summarizing the initial abatement steps taken under Paragraph C.1 of this Section and any resulting information or data.

D. - D.1.e. ...

2. Within 60 days of release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit the information collected in compliance with Paragraph D.1 of this Section to the Office of Environmental Assessment in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subparagraph C.1.f of this Section indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Assessment, while continuing, as necessary, any actions initiated under Subsections B-D of this Section, or preparing for actions required under Subsections F-G of this Section. To meet the requirements of this Subsection, owners and operators must take the following actions.

1. - 3. ...

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Assessment, within 45 days after confirming a release, a free product removal report that provides at least the following information:

E.4.a. - G.4. ...

a. notify the Office of Environmental Assessment of their intention to begin cleanup;

G.4.b. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017).

Chapter 9. Out-of-Service UST Systems and Closure

§903. Temporary Closure

A. - B.2. ...

3. submit a completed copy of the registration form UST-REG-01 to the Office of Environmental Assessment, indicating the dates the UST system was temporarily closed.

C. ...

D. When a UST system is temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section must be submitted in duplicate to the Office of Environmental Assessment within 60 days following the end of the 24-month temporary closure period.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2173 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017).

§905. Permanent Closure and Changes-in-Service

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators must notify the Office of Environmental Assessment of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. - 1.a. ...

b. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax at least seven days prior to implementing the removal or change.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of

Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), repromulgated LR 39:85 (January 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017).

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Assessment within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017).

Chapter 11. Financial Responsibility

§1111. Financial Test of Self-Insurance

A. - C.5.b. ...

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the Office of Environmental Assessment.

* * *

E. - F. ...

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Environmental Assessment of such failure within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR 27:2232 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017).

§1113. Guarantee

A. - A.2. ...

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Environmental Assessment. If the Office of Environmental Assessment notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Environmental Assessment. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017).

§1123. Trust Fund

A. - C. ...

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017).

§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance

A. - A.2. ...

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Office of Environmental Assessment of such failure and submit:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017).

§1131. Reporting by Owner or Operator

A. An owner or operator must submit to the Office of Environmental Assessment the appropriate forms listed in LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows.

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017).

§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy), *U.S. Code*, naming an owner or operator as debtor, the owner or operator must notify the Office of Environmental Assessment by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

B. ...

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Assessment.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:1902 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017).

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - B. ...

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide, to the Office of Environmental Assessment, payment of the examination fee and meet the following requirements to be eligible for a UST certification examination.

B.1.a. - E. ...

F. Expiration and Renewal of Certificates

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Assessment by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with Paragraph F.2 of this Section shall be considered a new applicant for certification.

F.2. - G.2. ...

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Assessment within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October

2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), LR 43:951 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2147 (November 2017).

§1309. Approval of Continuing Training Courses

A. No course in continuing education submitted to the Office of Environmental Assessment will be considered for approval unless the course:

1. - 2. ...

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Assessment in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2765 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2147 (November 2017).

Herman Robinson
General Counsel

1711#025

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Incorporation by Reference—Water Quality
(LAC 33:IX.4901 and 4903)(WQ096ft)

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 Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ096ft).

This Rule is identical to federal regulations found in title 40, volume 23, part 136; volume 29, parts 401 and 405-424; volume 30, parts 425-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule changes the reference dates to 40 CFR part 136 and 40 CFR parts 401 and 405-471. This updates the regulation to reflect the July 1, 2016 EPA publication. LAC

33:IX.Chapter 49 incorporates the following portions of the federal regulations into the Louisiana Water Quality regulations:

1. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2016, in its entirety;

2. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2016.

This action incorporates the recently updated federal regulations into Louisiana's Water Quality regulations, increasing the enforceability of LPDES permits that include EPA-approved analytical methods and effluent limitations guidelines. The published edition of the 40 CFR is regularly updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2016. The basis and rationale for this Rule are to mirror the federal regulations. 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 IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2016, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017).

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2016 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752

(April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017).

Herman Robinson
General Counsel

1711#024

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigation Division

In-Kind Replacements
(LAC 33:III.501)(AQ372)

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.D (AQ372).

This Rule allows the owner/operator of a facility that requires an air permit to replace an emissions unit with an identical or functionally equivalent unit without prior approval of the department, provided that the replacement unit:

- does not increase the potential to emit of any regulated pollutant on an hourly or annual basis;
- does not alter the basic design parameters of the process unit or facility;
- is not subject to regulatory requirements that differ from those applicable to the emissions unit being replaced; and
- does not result in a significant emissions increase of any nonattainment pollutant (if the facility is a *major stationary source* as defined in LAC 33:III.504, Nonattainment New Source Review) or regulated NSR pollutant (if the facility is a *major stationary source* as defined in LAC 33:III.509, Prevention of Significant Deterioration);
- records of in-kind replacements shall be kept on-site and available for inspection by the Office of Environmental Compliance.

The replaced emissions unit must also be removed from the facility or otherwise permanently disabled.

Currently, the owner/operator of a facility that requires an air permit must obtain approval of the department prior to replacing an emissions unit with an identical or functionally equivalent unit, even if no changes to the emission limits and monitoring, recordkeeping, and reporting requirements of the facility's permit are necessary. The basis and rationale for this Rule are to allow permittees to make certain "in-kind" replacements without first having to obtain an air permit modification. 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. - C.14. ...

D. Special Provisions for In-Kind Replacements. Replacement of an existing emissions unit with an identical or functionally equivalent unit shall not constitute a modification for purposes of LAC 33:III.501.C.1 and 2, provided that all of the following criteria are met.

1. The replacement unit shall not:

a. increase the potential to emit any regulated pollutant on an hourly or annual basis;

b. alter the basic design parameters of the process unit or facility; or

c. trigger new regulatory requirements necessitating a modification to the facility's permit.

2. The replacement unit shall comply with all emission limits, operational restrictions, performance testing conditions, and monitoring, recordkeeping, and reporting requirements imposed by the facility's permit on the replaced emissions unit.

3. For a facility that constitutes a *major stationary source*, as defined in LAC 33:III.504.K, the emissions increase of each nonattainment pollutant, as calculated in accordance with LAC 33:III.504.A.3 shall be less than the trigger values used to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

4. For a facility that constitutes a *major stationary source*, as defined in LAC 33:III.509.B, the emissions increase of each regulated NSR pollutant, as calculated in accordance with LAC 33:III.509.A.4, shall be less than the amount deemed *significant*, as defined in LAC 33:III.509.B.

5. For purposes of LAC 33:III.504 and 509, no creditable emission reductions shall be generated from shutting down the replaced emissions unit.

6. The replaced emissions unit shall be removed from the facility or otherwise disabled.

7. Records of in-kind replacements shall be kept on-site and available for inspection by the Office of Environmental Compliance.

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 37:1145, 1148 (April 2011), LR 37:1391

(May 2011), LR 37:3221, 3233 (November 2011), repromulgated LR 37:3507 (December 2011), LR 43:520 (March 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:2149 (November 2017).

Herman Robinson
General Counsel

1711#026

RULE

Office of the Governor Cemetery Board

Cemetery Industry (LAC 46:XIII.103, 701, 707, 709, 1501, 1505, 1507, 1509, 1707, 1711, 1713, and 1909)

The Office of the Governor, Louisiana Cemetery Board has amended LAC 46:XIII.103, 701, 707, 709, 1501, 1505, 1707, 1711, and 1909 and has adopted in their entirety LAC 46:XIII.1507, 1509, and 1713 as authorized by R.S. 8:67. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIII. Cemetery Industry

Chapter 1. General Provisions

§103. Definitions

A. ...

* * *

Derivative and Hedge Transactions or Investments—an agreement, option or instrument, or any series or combination thereof, to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or instead to make a cash settlement, or that has a price, yield, level, performance, value, or cash flow which is based primarily on that of one or more underlying interest. The term includes, but is not limited to, options (calls and puts), not otherwise permitted to be held by a trust under the provisions of title 8 or these rules, and any other substantially similar instruments. The term does not include a collateralized mortgage obligation, another asset-backed security, a principal-protected structured security, a floating rate security, an instrument that a trust is otherwise permitted to invest in or receive by a trust under the provisions of title 8 and these rules.

* * *

Trust Account—for purposes of R.S. 8:412(B)(1) only and for no other purpose, an escrow account, established by an abandoned cemetery sales and management licensee. The funds contained therein, shall not be the property of the abandoned cemetery sales and management licensee and must be used solely in accordance with R.S. 8:412(B)(1) and for no other purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:519 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2739 (October 2013), LR 43:2149 (November 2017).

Chapter 7. Certificate or License

§701. Applications

A. ...

B. If the applicant fails to submit the necessary documentation needed to complete an application, or the application remains incomplete and pending for a period in excess of 180 days without the applicant applying for and being granted an extension for good cause shown, the application shall be considered void, and any application fees paid in conjunction therewith shall be forfeited by the applicant and shall not be refunded; thereafter a new application for license must be submitted by the applicant, together with the payment of the applicable application fee without credit for any fees previously paid.

C. An application may be approved and certificate issued if the director or the director's designee determines that the applicant, its owners or managerial personnel meet the qualifications for license, has no unresolved or outstanding violations of title 8 or these rules, and are not subject to any investigation for violations of title 8 or these rules.

D. If the director or director's designee determines that further investigation is warranted, the director or director's designee may seek additional information from the applicant, from third parties, and may refer all matters to the assistant attorney general for further investigation and inquiry as warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:521 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:2150 (November 2017).

§707. Other Provisions Concerning Certificate or License **[Formerly §705]**

A. - B. ...

C. When an application for certificate of authority has been filed, but has not been acted upon by the board, for a change in the ownership or control of an already-licensed cemetery or cemetery authority and the existing certificate of authority expires, the annual regulatory charge due as provided for by the Louisiana Cemetery Act shall nonetheless be paid.

1. Upon payment of the annual regulatory charge, the board or its designee may issue a temporary certificate of authority, not to exceed 180 days without the applicant seeking and being granted an extension by the board or its designee for good cause shown, whose application for the change in the ownership or control of the cemetery or cemetery authority is pending. A temporary certificate of authority issued pursuant to this Subsection may be revoked by the board or its designee with or without cause.

D. If an applicant fails to submit the necessary documentation needed to complete an application for certificate of authority or license and the application remains pending for a period in excess of 180 days, without the applicant seeking and being granted an extension by the board or its designee for good cause shown, the application will be considered stale dated and the applicant must reapply including the resubmission of all time-sensitive information, documentation, and repayment of the prescribed application fees as provided for by the Louisiana Cemetery Act. Nothing contained herein to the contrary shall prohibit the board from

pursuing regulatory action for an applicant's failure to comply with title 8 or these rules.

E. Prior to the issuance of a certificate of authority to a newly established cemetery, the board may require the submission of minimum development plans, including, but not limited to, maps and plats and a development schedule for any roads and non-interment structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:522 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:2150 (November 2017).

§709. Refusal to Grant or Renew Certificate of Authority or License **[Formerly §707]**

A. If the director or director's designee refuses to grant or renew any certificate of authority to engage in the business of a cemetery, or the applicant has unresolved or outstanding violations of title 8 or these rules and/or is subject to a pending investigation for violation of title 8 or these rules, the director or director's designee shall give the applicant written notice of the decision and all of his or her reasons therefor. The applicant shall have 30 days after receipt of notice of the decision in which to initiate an adjudication proceeding before the board in accordance with §1101 et seq. If no such proceeding is initiated, the action shall be deemed a final decision of the board.

B. If the director or director's designee refuses to grant or renew any license to engage in the business of a cemetery sales organization or a cemetery management organization, or the applicant has unresolved or outstanding violations of title 8 or these rules and/or is subject to a pending investigation for violation of title 8 or these rules, the director or director's designee shall give the applicant written notice of the decision and all of his or her reasons therefor. The applicant shall have 30 days after receipt of notice of the decision in which to initiate an adjudication proceeding before the board in accordance with §1101 et seq. If no such proceeding is initiated, the action shall be deemed a final decision of the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:522 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:2150 (November 2017).

Chapter 15. Cemetery Care Fund

§1501. Payments to Perpetual Care Trust Fund **[Formerly §1301]**

A. - E. ...

F. In the event of a documented deposit overfunding error or when a contract for a cemetery space or interment right is cancelled, terminated, upgraded, or traded, the cemetery authority shall be entitled to a credit for the amount deposited and attributable to such space, provided that the cemetery authority can provide sufficient documentation, acceptable to the board, of the credit due.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 8:467 (September 1982),

amended by the Office of the Governor, Cemetery Board, LR 39:2748 (October 2013), LR 43:2150 (November 2017).

§1505. Annual Reports Required

A. ...

B. All trustees of perpetual or endowed care trust funds shall submit a report to the board, on the forms prescribed by the board, within 5 months after the close of the cemetery authority's tax reporting year, or within 60 days from resignation as trustee. The assets of the trust shall be reported on a cost basis.

1. All trustees of perpetual or endowed care trust funds shall amortize bond premiums and discounts and adjust the cost value accordingly over the life of the bond to ensure the cost of the bond will be equivalent to the value of the bond at acquisition.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2748 (October 2013), amended LR 43:2151 (November 2017).

§1507. Administration and Investment of Perpetual Care Trust Funds

A. The trustee of a perpetual care trust fund shall administer the trust assets in a prudent manner that takes into consideration of the long-term safety, stability and growth of the trust. Engaging in speculative investments for any reason, including for the purpose of generating distributable income, is strictly prohibited. It shall be unlawful for a trustee or an investment advisor acting on behalf of a trustee of a perpetual care trust fund to:

1. engage in derivative and hedge transactions or investments including, but not limited to, the buying and selling of options (calls and puts) with trust assets;

2. place a margin loan, pledge or other lien against any of the securities or assets held in a trust;

3. churn or excessively trade trust assets for the purpose of generating commissions or fees for the trustee and/or investment advisor. A series of transactions, even if suitable when viewed in isolation, may be considered excessive and unsuitable for the trust when taken together in consideration of the long-term safety, stability and growth of the trust.

B. Mutual funds which are listed on a national exchange are permissible investments under the Louisiana Cemetery Act or these rules.

1. If a mutual fund is not listed on a national exchange but all of its underlying assets are listed on a national exchange and otherwise comply with the Louisiana Cemetery Act or these rules, the mutual fund may be considered compliant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:2151 (November 2017).

§1509. Investment Advisors

A. Nothing in these rules shall be construed as prohibiting the trustee or cemetery authority from utilizing the services of an investment advisor. However, the use of an investment advisor does not relieve the trustee of its obligations and fiduciary responsibilities to administer the trust under the provisions of the Louisiana Cemetery Act or these rules including, but not limited to, directing and

oversight of all trust assets. At all times the assets of the trust must be held by the trustee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:2151 (November 2017).

Chapter 17. Merchandise Trust Funds

§1707. Annual Reports Required

A. ...

B. All trustees of merchandise trust funds shall submit a report to the board, on the forms prescribed by the board, within 90 days after the close of the cemetery's or other entity's tax reporting year, or within 60 days from resignation as trustee. The assets of the trust shall be reported on a cost basis.

1. All trustees of merchandise trust funds shall amortize bond premiums and discounts and adjust the cost value accordingly over the life of the bond to ensure the cost of the bond will be equivalent to the value of the bond at acquisition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2750 (October 2013), amended LR 43:2151 (November 2017).

§1711. General Storage Requirements

A. Stored merchandise must be comprised of materials that are designed to withstand prolonged storage without adversely affecting the structural integrity or aesthetic characteristics of such merchandise.

1. Personal property delivery pursuant to R.S. 8:502.1(2) and (3) shall not apply to merchandise comprised of materials subject to deterioration including, but not limited to caskets and urns, which is not delivered within 120 days after entering into such contract, and shall not be stored by the cemetery.

B. All storage of merchandise pursuant to title 8 shall be stored in accordance with the following requirements:

1. merchandise shall be stored in an organized and accessible manner in order to allow for expedient verification of compliance with title 8 and these rules; and

2. merchandise shall be stored in an environment so as to ensure the preservation of the merchandise.

C. If any merchandise is determined to be damaged and unusable, the cemetery or other entity shall replace the merchandise with an item of like kind and quality. Any cemetery or other entity with such damaged or unusable merchandise shall not be in compliance with title 8 or these rules until such time as the damaged or unusable items are replaced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2750 (October 2013), amended LR 43:2151 (November 2017).

§1713. Administration and Investment of Merchandise Trust Funds

A. As provided for by R.S. 8:509, merchandise trust funds shall be administered and invested in conformity with the perpetual care provisions of the Louisiana Cemetery Act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:2151 (November 2017).

Chapter 19. On-Site Inspections and Examinations
§1909. Examination Fees

A. The board shall assess the cemetery or other entity the costs associated with the expenses of the examination for each trust fund according to the following schedule:

1. if the examination takes two hours or less, there will be no fee charged;
2. if the examination takes more than two hours, but less than three hours, the fee will be \$125 per cemetery, per examiner;
3. if the examination takes three hours or more, the fee will be \$250 per cemetery, per examiner, per day, up to two days; and
4. if the examination takes more than two days, the cost shall be paid by the cemetery authority in an amount not to exceed a total of \$500, unless irregularities are found, in which case, the cemetery authority shall pay the full cost of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2751 (October 2013), amended LR 43:2152 (November 2017).

Lucy L. McCann
Director

1711#013

RULE

Office of the Governor
Division of Administration
Office of Group Benefits

Employee Benefits (LAC 32:I.319, 323, and 1109;
III.105, 107, and 109; and V.203, 205, 207,
305, 307, 405, 505, and 507)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Office of Group Benefits has adopted a final Rule amending LAC 32:I.319, 323, and 1109; III.105, 107, and 109; and V.203, 205, 207, 305, 307, 405, 505, and 507. This Rule is effective January 1, 2018.

Title 32

EMPLOYEE BENEFITS
Part I. General Provisions

Chapter 3. Uniform Provisions—Participation in the Office of Group Benefits

§319. Continued Coverage

A. - C.4. ...

D. Over-Age Dependents. If a dependent child who is the natural or adopted child of the enrollee is incapable of self-sustaining employment by reason of mental or physical incapacity and became incapable prior to attainment of age 26, the coverage for that dependent child may be continued for the duration of incapacity.

D.1. - E.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 43:2152 (November 2017), effective January 1, 2018.

§323. Employer Responsibility

A. ...

B. A participating employer shall immediately inform OGB when a retiree with OGB coverage returns to benefit-eligible employment. The enrollee shall be placed in the re-employed retiree category for premium calculation. The re-employed retiree premium classification applies to retirees with and without Medicare. The premium rates applicable to the re-employed retiree premium classification shall be identical to the premium rates applicable to the classification for retirees without Medicare. If the re-employed retiree suspends retirement benefits and returns to benefit-eligible employment with the agency from which the re-employed retiree originally retired, the employee portion of the premium shall be withheld by payroll deduction and the employing agency shall remain responsible for the employer portion of the premium. If the re-employed retiree suspends retirement benefits and returns to benefit-eligible employment with an OGB participating agency other than the agency from which the re-employed retiree originally retired, the employee portion of the premium shall be withheld by payroll deduction, and the employing agency shall be responsible for the employer portion of the premium throughout the duration of employment. If the re-employed retiree returns to benefit-eligible employment, yet does not suspend retirement benefits as allowed by law, the employee portion of the premium shall be withheld by payroll deduction, and the employing OGB participating agency shall be responsible for the employer portion of the premium throughout the duration of employment. When the re-employed retiree separates from employment with the OGB participating employer, the employer shall notify OGB of such separation within 30 days. After the re-employed retiree again separates from employment with an OGB participating employer, the agency from which the re-employed retiree originally retired shall again be responsible for the employer portion of the premium.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:345 (February 2015), effective March 1, 2015, amended LR 41:2351 (November 2015), effective January 1, 2016, LR 43:2152 (November 2017), effective January 1, 2018.

Chapter 11. Contributions

§1109. Retirees with Medicare Parts A and B

A. Employees who retire on or after July 1, 1997, and who are not rehired retirees in a benefit-eligible position, shall receive a reduced premium rate when enrolled in Medicare Parts A and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees, State Employees Group Benefits Program, LR 24:496 (March 1998), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, LR 43:2152 (November 2017), effective January 1, 2018.

Part III. Primary Plan of Benefits

Chapter 1. Operation of Primary Plan

§105. Out of Pocket Maximums

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
Individual:	Network	Non-Network
Active Employee/Retirees on or after March 1, 2015	\$3,500	No Coverage
Retirees prior to March 1, 2015 (With and Without Medicare)	\$2,000	No Coverage
Individual, Plus One Dependent:		
Active Employee/Retirees on or after March 1, 2015	\$6,000	No Coverage
Retirees prior to March 1, 2015 (With and Without Medicare)	\$3,000	No Coverage
Individual, Plus Two or More Dependents:		
Active Employee/Retirees on or after March 1, 2015	\$8,500	No Coverage
Retirees prior to March 1, 2015 (With and Without Medicare)	\$4,000	No Coverage

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, amended LR 43:2153 (November 2017), effective January 1, 2018.

§107. Schedule of Benefits

A. Benefits, Copayments, and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	\$25 Copayment per Visit	No Coverage
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	\$25 Copayment per Visit	No Coverage
Specialist Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	\$50 Copayment per Visit	No Coverage
Ambulance Services - Ground (for Emergency Medical Transportation only)	\$50 Copayment	\$50 Copayment
Ambulance Services - Air (for Emergency Medical Transportation only) Non-Emergency requires prior authorization ²	\$250 Copayment	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Ambulatory Surgical Center and Outpatient Surgical Facility	\$100 Copayment	No Coverage
Birth Control Devices – Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan)	100% - 0%	No Coverage
Cardiac Rehabilitation (limit of 36 visits per Plan Year)	\$25/\$50 Copayment per day depending on Provider Type ² \$50 Copayment - Outpatient Facility ²	No Coverage
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician’s office)	Office - \$25 Copayment per Visit Outpatient Facility 100% - 0% ^{1,2}	No Coverage
Diabetes Treatment	80% - 20% ¹	No Coverage
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	\$25 Copayment	No Coverage
Dialysis	100% - 0% ¹	No Coverage
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2} of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Emergency Room (Facility Charge)	\$200 Copayment; Waived if admitted to the same facility	
Emergency Medical Services (Non-Facility Charges)	100% - 0% ¹	100% - 0% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	No Coverage
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older.)	80% - 20% ^{1,3}	No Coverage
Hearing Impaired Interpreter Expense	100% - 0%	No Coverage
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	\$50 Copayment ²	No Coverage
Home Health Care (limit of 60 Visits per Plan Year)	100% - 0% ^{1,2}	No Coverage
Hospice Care (limit of 180 Days per Plan Year)	100% - 0% ^{1,2}	No Coverage
Injections Received in a Physician’s Office (when no other health service is received)	100% - 0% ¹	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Inpatient Hospital Admission, All Inpatient Hospital Services Included	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Inpatient and Outpatient Professional Services for Which a Copayment Is Not Applicable	100% - 0% ¹	No Coverage
Mastectomy Bras - Ortho-Mammary Surgical (limited to three (3) per Plan Year)	80% - 20% ¹ of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Mental Health/Substance Abuse - Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	\$25 Copayment per Visit	No Coverage
Newborn - Sick, Services excluding Facility	100% - 0% ¹	No Coverage
Newborn - Sick, Facility	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Oral Surgery	100% - 0% ^{1,2}	No Coverage
Pregnancy Care - Physician Services	\$90 Copayment per pregnancy	No Coverage
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Article in the Benefit Plan.)	100% - 0% ³	No Coverage
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> Speech Physical/Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.) 	\$25 Copayment per Visit	No Coverage
Skilled Nursing Facility (limit of 90 days per Plan Year)	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Sonograms and Ultrasounds (Outpatient)	\$50 Copayment	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Urgent Care Center	\$50 Copayment	No Coverage
Vision Care (Non-Routine) Exam	\$25/\$50 Copayment depending on Provider Type	No Coverage
X-ray and Laboratory Services (low-tech imaging)	Hospital Facility 100%-0% ¹ Office or Independent Lab 100%-0%	No Coverage

¹Subject to Plan Year Deductible, if applicable
²Pre-Authorization Required, if applicable. Not applicable for Medicare primary.
³Age and/or Time Restrictions Apply

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, amended LR 43:2153 (November 2017), effective January 1, 2018.

§109. Prescription Drug Benefits

A. Prescription Drug Benefits

Network Pharmacy	Member pays
Tier 1- Generic	50% up to \$30
Tier 2- Preferred	50% up to \$55
Tier 3- Non-preferred	65% up to \$80
Tier 4- Specialty	50% up to \$80
90 day supplies for maintenance drugs from mail order OR at participating 90-day retail network pharmacies	Two and a half times the cost of your applicable copayment
Co-Payment after the Out Of Pocket Amount of \$1,500 Is Met	
Tier 1- Generic	\$0
Tier 2- Preferred	\$20
Tier 3- Non-preferred	\$40
Tier 4- Specialty	\$40
Prescription drug benefits-31 day refill	
Plan pays balance of eligible expenses	
Diabetic supplies are not subject to a copayment if enrolled in the In-Health/Disease Management Program.	
Member who chooses a brand-name drug for which an approved generic version is available, pays the cost difference between the brand-name drug & the generic drug, plus the co-pay for the brand-name drug; the cost difference does not apply to the \$1,500 out of pocket maximum.	
Medications available over-the-counter in the same prescribed strength are not covered under the pharmacy plan.	
Smoking Cessation Medications: Benefits are available for Prescription and over-the-counter (OTC) smoking cessation medications when prescribed by a physician. (Prescription is required for over-the-counter medications). Smoking cessation medications are covered at 100%.	
This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription. Utilization management criteria may apply to specific drugs or drug categories to be determined by PBM.	

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:352 (February 2015), effective March 1, 2015, amended LR 43:2154 (November 2017), effective January 1, 2018.

Part V. Additional Plans and Operations

Chapter 2. PPO Plan Structure - Magnolia Open Access Plan

§203. Out of Pocket Maximums

Includes All Eligible Copayments, Coinsurance Amounts and Deductibles					
	Active Employee/Retirees on or after March 1, 2015		Retirees prior to March 1, 2015 Without Medicare		Retirees prior to March 1, 2015 With Medicare
	Network	Non-Network	Network	Non-Network	Network and Non-Network
Individual Only	\$3,500	\$4,700	\$2,300	\$4,300	\$3,300
Individual Plus One (Spouse or Child)	\$6,000	\$8,500	\$3,600	\$7,600	\$5,600
Individual Plus Two	\$8,500	\$12,250	\$4,900	\$10,900	\$7,900
Individual Plus Three	\$8,500	\$12,250	\$5,900	\$13,700	\$9,900
Individual Plus Four	\$8,500	\$12,250	\$6,900	\$13,700	\$11,900
Individual Plus Five	\$8,500	\$12,250	\$7,900	\$13,700	\$13,700
Individual Plus Six	\$8,500	\$12,250	\$8,900	\$13,700	\$13,700
Individual Plus Seven	\$8,500	\$12,250	\$9,900	\$13,700	\$13,700
Individual Plus Eight	\$8,500	\$12,250	\$10,900	\$13,700	\$13,700
Individual Plus Nine	\$8,500	\$12,250	\$11,900	\$13,700	\$13,700
Individual Plus Ten	\$8,500	\$12,250	\$12,900	\$13,700	\$13,700
Individual Plus Eleven or More	\$8,500	\$12,250	\$13,700	\$13,700	\$13,700

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:355 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018.

§205. Schedule of Benefits

A. Benefits and Coinsurance

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non-Network Providers	Network and Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Specialist (Physician) Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulance Services - Ground (for Emergency Medical Transportation only)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulance Services - Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Care Article in the Benefit Plan)	100% - 0%	70% - 30% ¹	Network Providers 100% - 0% Non-Network Providers 80% - 20% ¹
Cardiac Rehabilitation (limit of 36 visits per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Diabetes Treatment	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	90% - 10% ¹	Not Covered	80% - 20% ¹
Dialysis	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Emergency Room (Facility Charge)	\$150 Copayment ¹ ; Waived if admitted to the same facility		
Emergency Medical Services (Non-Facility Charges)	90% - 10% ¹	90% - 10% ¹	80% - 20% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames - Limited to a Maximum Benefit of \$50 ¹		
Flu shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	100% - 0%	100% - 0%
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older)	90% - 10% ^{1,3}	70% - 30% ^{1,3}	80% - 20% ^{1,3}
Hearing Impaired Interpreter Expense	100% - 0%	100% - 0%	100% - 0%
High-Tech Imaging – Outpatient • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Home Health Care (limit of 60 Visits per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Hospice Care (limit of 180 Days per Plan Year)	80% - 20% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Injections Received in a Physician's Office (when no other health service is received)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Inpatient Hospital Admission, All Inpatient Hospital Services Included Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Inpatient and Outpatient Professional Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mastectomy Bras - Ortho- Mammary Surgical (limit of three (3) per Plan Year)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Services Excluding Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Facility Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Oral Surgery for Impacted Teeth	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Pregnancy Care - Physician Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Care Article in the Benefit Plan.)	100% - 0% ³	70% - 30% ^{1,3}	Network 100% - 0 ³ Non-Network 80% - 20% ^{1,3}
Rehabilitation Services - Outpatient: • Speech • Physical/ Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Skilled Nursing Facility (limit 90 days per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Sonograms and Ultrasounds (Outpatient)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Urgent Care Center	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Vision Care (Non-Routine) Exam	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
X-ray and Laboratory Services (low-tech imaging)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
¹ Subject to Plan Year Deductible, if applicable			
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.			
³ Age and/or Time Restrictions Apply			

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:356 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018.

§207. Prescription Drug Benefits

A. Prescription Drug Benefits

Network Pharmacy	Member Pays
Tier 1- Generic	50% up to \$30
Tier 2- Preferred	50% up to \$55
Tier 3- Non-preferred	65% up to \$80
Tier 4- Specialty	50% up to \$80
90 day supplies for maintenance drugs from mail order OR at participating 90-day retail network pharmacies	Two and a half times the cost of your applicable copayment
Co-Payment after the Out Of Pocket Amount of \$1,500 Is Met	
Tier 1- Generic	\$0
Tier 2- Preferred	\$20
Tier 3- Non-preferred	\$40
Tier 4- Specialty	\$40
Prescription drug benefits-31 day refill	
Plan pays balance of eligible expenses	
Diabetic supplies are not subject to a copayment if enrolled in the In-Health/Disease Management Program.	
Member who chooses a brand-name drug for which an approved generic version is available, pays the cost difference between the brand-name drug and the generic drug, plus the co-pay for the brand-name drug; the cost difference does not apply to the \$1,500 out of pocket maximum.	
Medications available over-the-counter in the same prescribed strength are not covered under the pharmacy plan.	
Smoking Cessation Medications: Benefits are available for Prescription and over-the-counter (OTC) smoking cessation medications when prescribed by a physician. (Prescription is required for over-the-counter medications). Smoking cessation medications are covered at 100%.	
This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription. Utilization management criteria may apply to specific drugs or drug categories to be determined by PBM.	

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:358 (February 2015), effective March 1, 2015, amended LR 43:2157 (November 2017), effective January 1, 2018.

Chapter 3. Narrow Network HMO Plan Structure—Magnolia Local Plan (in certain geographical areas)

§305. Schedule of Benefits

A. Benefits, Copayments, and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Allied Health/Other Professional Visits: • Chiropractors • Federally Funded Qualified Rural • Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants	\$25 Copayment per Visit	No Coverage
Specialist Office Visits including surgery performed in an office setting: • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic	\$50 Copayment per Visit	No Coverage
Ambulance Services - Ground (for Emergency Medical Transportation only)	\$50 Copayment	\$50 Copayment
Ambulance Services - Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	\$250 Copayment	No Coverage
Ambulatory Surgical Center and Outpatient Surgical Facility	\$100 Copayment	No Coverage
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan.)	100% - 0%	No Coverage
Cardiac Rehabilitation (limit of 36visits per Plan Year)	\$25/\$50 Copayment per day depending on Provider Type ² \$50 Copayment- Outpatient Facility ²	No Coverage
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	Office – \$25 Copayment per Visit Outpatient Facility 100% - 0% ^{1,2}	No Coverage
Diabetes Treatment	80% - 20% ¹	No Coverage
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	\$25 Copayment	No Coverage
Dialysis	100% - 0% ¹	No Coverage
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2} of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Emergency Room (Facility Charge)	\$150 Copayment; Waived if admitted to the same facility	
Emergency Medical Services (Non-Facility Charges)	100% - 0% ¹	100% - 0% ¹

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Physician Office Visits including surgery performed in an office setting: • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics	\$25 Copayment per Visit	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (<i>purchased within six months following cataract surgery</i>)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu shots and H1N1 vaccines (<i>administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair</i>)	100% - 0%	No Coverage
Hearing Aids (<i>Hearing Aids are not covered for individuals age eighteen (18) and older.</i>)	80% - 20% ^{1,3}	No Coverage
Hearing Impaired Interpreter Expense	100% - 0%	No Coverage
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	\$50 Copayment ²	No Coverage
Home Health Care (<i>limit of 60 Visits per Plan Year</i>)	100% - 0% ^{1,2}	No Coverage
Hospice Care (<i>limit of 180 Days per Plan Year</i>)	100% - 0% ^{1,2}	No Coverage
Injections Received in a Physician's Office (<i>when no other health service is received</i>)	100% - 0% ¹	No Coverage
Inpatient Hospital Admission, All Inpatient Hospital Services Included	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Inpatient and Outpatient Professional Services for which a Copayment is Not Applicable	100% - 0% ¹	No Coverage
Mastectomy Bras (<i>limited to three (3) per Plan Year</i>)	80% - 20% ¹ of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	\$25 Copayment per Visit	No Coverage
Newborn - Sick, Services excluding Facility	100% - 0% ¹	No Coverage
Newborn - Sick, Facility	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Oral Surgery	100% - 0% ^{1,2}	No Coverage
Pregnancy Care - Physician Services	\$90 Copayment per pregnancy	No Coverage
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (<i>For a complete list of benefits, refer to the Preventive and Wellness Article in the Benefit Plan.</i>)	100% - 0% ³	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> • Speech • Physical/Occupational <i>(Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.)</i>	\$25 Copayment per Visit	No Coverage
Skilled Nursing Facility (<i>limit of 90 days per Plan Year</i>)	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Sonograms and Ultrasounds (<i>Outpatient</i>)	\$50 Copayment	No Coverage
Urgent Care Center	\$50 Copayment	No Coverage
Vision Care (Non-Routine) Exam	\$25/\$50 Copayment depending on Provider Type	No Coverage
X-ray and Laboratory Services (<i>low-tech imaging</i>)	Hospital Facility 100% - 0% ¹ Office or Independent Lab 100% - 0%	No Coverage

¹Subject to Plan Year Deductible, if applicable
²Pre-Authorization Required, if applicable. Not applicable for Medicare primary.
³Age and/or Time Restrictions Apply

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:359 (February 2015), effective March 1, 2015, amended LR 43:2157 (November 2017), effective January 1, 2018.

§307. Prescription Drug Benefits

A. Prescription Drug Benefits

Network Pharmacy	Member pays
Tier 1- Generic	50% up to \$30
Tier 2- Preferred	50% up to \$55
Tier 3- Non-preferred	65% up to \$80
Tier 4- Specialty	50% up to \$80
90 day supplies for maintenance drugs from mail order OR at participating 90-day retail network pharmacies	Two and a half times the cost of your applicable copayment
Co-Payment after the Out Of Pocket Amount of \$1,500 Is Met	
Tier 1- Generic	\$0
Tier 2- Preferred	\$20
Tier 3- Non-preferred	\$40
Tier 4- Specialty	\$40
Prescription drug benefits-31 day refill	
Plan pays balance of eligible expenses	
Diabetic supplies are not subject to a copayment if enrolled in the In-Health/Disease Management Program.	
Member who chooses a brand-name drug for which an approved generic version is available, pays the cost difference between the brand-name drug & the generic drug, plus the co-pay for the brand-name drug; the cost difference does not apply to the \$1,500 out of pocket maximum.	
Medications available over-the-counter in the same prescribed strength are not covered under the pharmacy plan.	

Smoking Cessation Medications:
Benefits are available for Prescription and over-the-counter (OTC) smoking cessation medications when prescribed by a physician. (Prescription is required for over-the-counter medications). Smoking cessation medications are covered at 100%.
This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription. Utilization management criteria may apply to specific drugs or drug categories to be determined by PBM.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:360 (February 2015), effective March 1, 2015, amended LR 43:2158 (November 2017), effective January 1, 2018.

Chapter 4. PPO/Consumer-Driven Health Plan Structure—Pelican HSA 775 Plan

§405. Schedule of Benefits

A. Benefits and Coinsurance

	Coinsurance	
	Network Providers	Non-Network Providers
Physician's Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	80% - 20% ¹	60% - 40% ¹
Allied Health/Other Office Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Retail Health Clinics • Nurse Practitioners • Physician's Assistants 	80% - 20% ¹	60% - 40% ¹
Specialist Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	80% - 20% ¹	60% - 40% ¹
Ambulance Services - Ground (for Emergency Medical Transportation Only)	80% - 20% ¹	80% - 20% ¹
Ambulance Services – Air (for Emergency Medical Transportation Only) Non-emergency requires prior authorization ²	80% - 20% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	80% - 20% ¹	60% - 40% ¹
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan)	100% - 0%	60% - 40% ¹
Cardiac Rehabilitation (limited to 36 visits per Plan Year)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Diabetes Treatment	80% - 20% ¹	60% - 40% ¹
Diabetic/Nutritional Counseling – Clinics and Outpatient Facilities	80% - 20% ¹	Not Covered
Dialysis	80% - 20% ¹	60% - 40% ¹

	Coinsurance	
	Network Providers	Non-Network Providers
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Emergency Room (Facility Charge)	80% - 20% ¹	80% - 20% ¹
Emergency Medical Services (Non-Facility Charge)	80% - 20% ¹	80% - 20% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu Shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	100% - 0%
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older)	80% - 20% ^{1,3}	Not Covered
Hearing Impaired Interpreter Expense	100% - 0%	100% - 0%
High-Tech Imaging – Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Home Health Care (limit of 60 Visits per Plan Year)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Hospice Care (limit of 180 Days per Plan Year)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Injections Received in a Physician's Office (when no other health service is received)	80% - 20% ¹	60% - 40% ¹
Inpatient Hospital Admission (all Inpatient Hospital services included)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Inpatient and Outpatient Professional Services	80% - 20% ¹	60% - 40% ¹
Mastectomy Bras (limited to three (3) per Plan Year)	80% - 20% ¹	60% - 40% ¹
Mental Health/Substance Abuse – Inpatient Treatment and Intensive Outpatient Programs	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Mental Health/Substance Abuse – Office Visits and Outpatient Treatment (Other than Intensive Outpatient Programs)	80% - 20% ¹	60% - 40% ¹
Newborn – Sick, Services excluding Facility	80% - 20% ¹	60% - 40% ¹
Newborn – Sick, Facility	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Oral Surgery	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Pregnancy Care - Physician Services	80% - 20% ¹	60% - 40% ¹
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness/Routine Care Article in the Benefit Plan.)	100% - 0% ³	100% - 0% ³
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> • Speech • Physical/Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.)	80% - 20% ¹	60% - 40% ¹

	Coinsurance	
	Network Providers	Non-Network Providers
Skilled Nursing Facility (<i>limit 90 Days per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Sonograms and Ultrasounds - Outpatient	80% - 20% ¹	60% - 40% ¹
Urgent Care Center	80% - 20% ¹	60% - 40% ¹
Vision Care (Non-Routine) Exam	80% - 20% ¹	60% - 40% ¹
X-Ray and Laboratory Services (<i>low-tech imaging</i>)	80% - 20% ¹	60% - 40% ¹
¹ Subject to Plan Year Deductible, if applicable		
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.		
³ Age and/or Time Restrictions Apply		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:361 (February 2015), effective March 1, 2015, amended LR 43:2159 (November 2017), effective January 1, 2018.

Chapter 5. PPO/Consumer-Driven Health Plan Structure—Pelican HRA 1000 Plan

§505. Schedule of Benefits

A. Benefits and Coinsurance

	Coinsurance	
	Network Providers	Non-Network Providers
Physician's Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	80% - 20% ¹	60% - 40% ¹
Allied Health/Other Office Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Retail Health Clinics • Nurse Practitioners • Physician's Assistants 	80% - 20% ¹	60% - 40% ¹
Specialist Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	80% - 20% ¹	60% - 40% ¹
Ambulance Services - Ground (<i>for Emergency Medical Transportation Only</i>)	80% - 20% ¹	80% - 20% ¹
Ambulance Services – Air (<i>for Emergency Medical Transportation only</i>) Non-emergency requires prior authorization ²	80% - 20% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	80% - 20% ¹	60% - 40% ¹
Birth Control Devices - Insertion and Removal (<i>as listed in the Preventive and Wellness Article in the Benefit Plan</i>)	100% - 0%	60% - 40% ¹

	Coinsurance	
	Network Providers	Non-Network Providers
Cardiac Rehabilitation (<i>limited to 36 visits per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Chemotherapy/Radiation Therapy (<i>Authorization not required when performed in Physician's office</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Diabetes Treatment	80% - 20% ¹	60% - 40% ¹
Diabetic/Nutritional Counseling – Clinics and Outpatient Facilities	80% - 20% ¹	Not Covered
Dialysis	80% - 20% ¹	60% - 40% ¹
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Emergency Room (<i>Facility Charge</i>)	80% - 20% ¹	80% - 20% ¹
Emergency Medical Services (<i>Non-Facility Charge</i>)	80% - 20% ¹	80% - 20% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (<i>purchased within six months following cataract surgery</i>)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu Shots and H1N1 vaccines (<i>administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair</i>)	100% - 0%	100% - 0%
Hearing Aids (<i>Hearing Aids are not covered for individuals age eighteen (18) and older</i>)	80% - 20% ^{1,3}	Not Covered
Hearing Impaired Interpreter Expense	100%-0%	100%-0%
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Home Health Care (<i>limit of 60 Visits per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Hospice Care (<i>limit of 180 Days per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Injections Received in a Physician's Office (<i>when no other health service is received</i>)	80% - 20% ¹	60% - 40% ¹
Inpatient Hospital Admission (<i>all Inpatient Hospital services included</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Inpatient and Outpatient Professional Services	80% - 20% ¹	60% - 40% ¹
Mastectomy Bras (<i>limited to three (3) per Plan Year</i>)	80% - 20% ¹	60% - 40% ¹
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	80% - 20% ¹	60% - 40% ¹
Newborn - Sick, Services excluding Facility	80% - 20% ¹	60% - 40% ¹
Newborn - Sick, Facility	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Oral Surgery	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Pregnancy Care - Physician Services	80% - 20% ¹	60% - 40% ¹

	Coinsurance	
	Network Providers	Non-Network Providers
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness/Routine Care Article in the Benefit Plan.)	100% - 0% ³	100% - 0% ³
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> Speech Physical/Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.) 	80% - 20% ¹	60% - 40% ¹
Skilled Nursing Facility (limit 90 Days per Plan Year)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Sonograms and Ultrasounds - Outpatient	80% - 20% ¹	60% - 40% ¹
Urgent Care Center	80% - 20% ¹	60% - 40% ¹
Vision Care (Non-Routine) Exam	80% - 20% ¹	60% - 40% ¹
X-Ray and Laboratory Services (low-tech imaging)	80% - 20% ¹	60% - 40% ¹
¹ Subject to Plan Year Deductible, if applicable		
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.		
³ Age and/or Time Restrictions Apply		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:364 (February 2015), effective March 1, 2015, amended LR 43:2160 (November 2017), effective January 1, 2018.

§507. Prescription Drug Benefits

A. Prescription Drug Benefits

Network Pharmacy	Member pays
Tier 1 - Generic	50% up to \$30
Tier 2 - Preferred	50% up to \$55
Tier 3 - Non-preferred	65% up to \$80
Tier 4 - Specialty	50% up to \$80
90 day supplies for maintenance drugs from mail order OR at participating 90-day retail network pharmacies	Two and a half times the cost of your applicable co-payment
Co-Payment after the Out Of Pocket Amount of \$1,500 Is Met	
Tier 1 - Generic	\$0
Tier 2 - Preferred	\$20
Tier 3 - Non-preferred	\$40
Tier 4 - Specialty	\$40
Prescription drug benefits-31 day refill	
Maintenance drugs: not subject to deductible; subject to applicable copayments above.	
Plan pays balance of eligible expenses.	
Diabetic supplies are not subject to a copayment if enrolled in the In-Health/Disease Management Program.	
Member who chooses a brand-name drug for which an approved generic version is available, pays the cost difference between the brand-name drug & the generic drug, plus the co-pay for the brand-name drug; the cost difference does not apply to the \$1,500 out of pocket maximum.	

Medications available over-the-counter in the same prescribed strength are not covered under the pharmacy plan.
Smoking Cessation Medications: Benefits are available for Prescription and over-the-counter (OTC) smoking cessation medications when prescribed by a physician. (Prescription is required for over-the-counter medications). Smoking cessation medications are covered at 100%.
This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor that require a prescription. Utilization management criteria may apply to specific drugs or drug categories to be determined by PBM.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:365 (February 2015), effective March 1, 2015.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 43:2161 (November 2017), effective January 1, 2018.

Tommy Teague
Chief Executive Office

1711#007

RULE

Office of the Governor Real Estate Appraisers Board

Compensation of Fee Appraisers (LAC 46:LXVII.31101)

Under the authority of the Louisiana real estate appraisers law, R.S. 37:3397 et seq., and Executive Order JBE 17-16, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has readopted Chapter 311 (Compensation of Fee Appraisers) to provide additional oversight.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Subpart 3. Appraisal Management Companies

Chapter 311. Compensation of Fee Appraisers

§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3415.15(A). For the purposes of this Chapter, market area shall be identified by zip code, parish, or metropolitan area.

1. Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.

2. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.

3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described

in Paragraphs 1 or 2 above shall, at a minimum, review the factors listed in §31101.B.1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.

B. A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:

1. the type of property for each appraisal performed;
2. the scope of work for each appraisal performed;
3. the time in which the appraisal services are required to be performed;
4. fee appraiser qualifications;
5. fee appraiser experience and professional record; and
6. fee appraiser work quality.

C. Licensees shall maintain records of all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation paid for each appraisal assignment in the geographic market of the property being appraised, in accordance with §30501.C.

D. Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:

1. within 30 days after the appraiser provides the completed appraisal report to the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013), amended LR 42:872 (June 2016), repromulgated LR 43:2161 (November 2017).

Bruce Unangst
Executive Director

1711#052

RULE

Department of Health Board of Pharmacy

Equivalent Drug Product Interchange (LAC 46:LIII.2511 and 2517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2511 and §2517 of its rules. The amended rules implement Act 391 of the 2015 Legislature, which amended the statutory definition of the term *equivalent drug product* and imposed certain communication requirements on pharmacists dispensing certain interchangeable biological products.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2511. Prescriptions

A - C.6. ...

D. Oral Prescriptions

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist or pharmacy intern or pharmacy technician shall reduce the order to a written form prior to dispensing the medication. As an alternative to recording such prescriptions on paper forms, a pharmacist may enter the prescription information directly into the pharmacy's dispensing information system. In the event a pharmacy intern or pharmacy technician transcribes such a prescription, the supervising pharmacist shall initial or countersign the prescription form prior to processing the prescription.

E. Electronic Prescriptions

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and if for a controlled substance, the DEA registration number.

F. Exclusion. The provisions of this Section shall not apply to medical orders written for patients in facilities licensed by the Department of Health or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017).

§2517. Prescription Dispensing

A. - A.6. ...

B. Equivalent Drug Product Interchange

1. The pharmacist shall not select an equivalent drug product when the prescriber prohibits interchange by any one of the following methods.

a. On a prescription generated in written form, the prescriber shall handwrite a mark in a check box labeled "Dispense as Written", or the abbreviation "DAW", or both, and shall manually sign the prescription form.

i. For prescriptions reimbursable by the state Medicaid program, the prescriber shall handwrite the words "Brand Necessary" or "Brand Medically Necessary" on the prescription form or on a sheet of paper attached to the prescription form.

b. On a prescription generated in oral or verbal form, the prescriber (or the prescriber's agent) shall indicate a specific brand name drug or product is ordered by the practitioner, and the pharmacist shall note such information on the file copy of the prescription.

c. On a prescription generated in electronic form, the prescriber shall indicate "Dispense as Written", "DAW", or "Brand Medically Necessary."

2. Where the prescriber has indicated that an equivalent drug product interchange is prohibited, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

3. In the event the prescriber has not prohibited equivalent drug product interchange in the manner described above, the pharmacist may select an equivalent drug product for dispensing, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

4. When the pharmacist selects a biological product rated as interchangeable for the product ordered by the prescriber, the dispensing pharmacist (or his designee) shall communicate to the prescriber by any means, but no later than five business days following the dispensing date, the specific product dispensed to the patient, including the name of the product and the manufacturer. However, no such communication to the prescriber is required when:

- a. the prescriber prohibited interchange in the manner described above;
- b. there is no product rated as interchangeable or therapeutically equivalent; or
- c. the product dispensed is a refill not changed from the product dispensed on the prior filling of the prescription.

C. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017).

Malcolm J. Broussard
Executive Director

1711#023

RULE

Department of Health Board of Pharmacy

Pharmacy Internship Requirements (LAC 46:LIII.703 and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §703 and §705 of its rules. The amended rules revise the professional experience requirements for pharmacy interns to qualify for pharmacist licensure. This Rule becomes effective on January 1, 2018.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 7. Pharmacy Interns

§703. Registration

A. All pharmacy interns shall meet the following requirements for registration.

1. All pharmacy interns shall register with the board. The failure to register may result in disciplinary action by the board.

a. The applicant shall submit to the board office a properly completed application no later than the end of the first semester of the first academic year at a board-approved college of pharmacy.

b. The board may issue an intern registration to the applicant, upon receipt of a properly completed application, appropriate fee, and any other documentation required by the board office.

c. The intern registration shall expire one year after the certification of graduation from a board-approved college of pharmacy.

i. Intern registrations issued to foreign pharmacy graduates shall expire two years after the date of issue.

d. The board shall reserve the right to recall or refuse to issue any intern registration for cause.

2. A pharmacy intern shall wear appropriate attire and be properly identified with his name and intern status while on duty at the preceptor site.

3. A pharmacy intern shall notify the board in writing within 10 days of a change of address. This notice shall include the pharmacy intern's name, registration number, and old and new addresses.

4. A pharmacy intern shall notify the board in writing within 10 days of a change in location(s) of employment. This notice shall include the pharmacy intern's name and registration number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

5. The pharmacy intern shall be non-impaired.

a. The pharmacy intern is subject to confidential random drug screen testing and/or evaluations.

b. A positive drug screen may be self evident as proof of improper drug use. For the purposes of this Chapter, a missed screen, a screen submitted beyond the mandated period, and/or any screen submitted indicating the sample provided is diluted, substituted, or in any way adulterated is considered to be a positive drug screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 26:2285 (October 2000), LR 29:2086 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:2163 (November 2017), effective January 1, 2018.

§705. Professional Experience

A. All applicants for licensure by examination shall earn professional experience in the practice of pharmacy concurrent with attending or after graduation from a board-approved college of pharmacy.

B. The practical experience shall be predominantly related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under federal and state law.

1. The practical experience earned shall have been under the supervision of a pharmacist, or in the alternative, a licensed practitioner.

2. A pharmacy intern shall not practice in a permitted pharmacy site that is on probation with the board. A

pharmacy intern shall not practice under the supervision of a pharmacist or other licensed practitioner whose license is on probation with their primary professional licensing agency.

C. Professional Experience Hours. To qualify for pharmacist licensure, an intern shall supply evidence of the acquisition of at least 1,740 hours of professional experience, of which at least 1,500 hours of which shall be practical experience as described in Subsection B above.

1. The board shall award 1,740 hours credit to an intern for his successful completion of a professional experience curriculum at a board-approved college of pharmacy. The dean of the board-approved college of pharmacy shall certify the completion of this requirement in the manner prescribed by the board office.

2. In the event an applicant for pharmacist licensure by examination is unable to document the acquisition of 1,740 hours of professional experience through the successful completion of a professional experience curriculum at a board-approved college of pharmacy by means of an attestation from the dean of that college, then the applicant shall demonstrate the acquisition of at least 1,740 hours of pre-licensure practical experience in a licensed pharmacy, subject to the following limitations.

a. The pharmacy permit shall not have been on probation or otherwise restricted during the time the hours were earned.

b. The license of the pharmacist supervising the intern and signing the affidavit shall have been issued no less than two years before supervising the intern, and further, shall not have been on probation or otherwise restricted during the time the hours were earned.

3. Practical experience hours that are submitted to the board for credit consideration (other than those attested to by the dean of the college of pharmacy for the successful completion of a professional experience curriculum at a board-approved college of pharmacy) shall be listed on an affidavit form supplied by the board office, and signed by the supervising pharmacist and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. Certification of Hours to and from another Jurisdiction

a. Interns enrolled in a board-approved college of pharmacy in Louisiana who earn hours of professional experience in another jurisdiction, as well as interns enrolled in a board-approved college of pharmacy in another jurisdiction who earn hours of professional experience in another jurisdiction, may transfer those hours to Louisiana under the following conditions:

i. The hours of practical experience shall be listed on an affidavit form supplied by the Louisiana Board of Pharmacy, signed by the supervising pharmacist and the intern, and submitted to the Louisiana Board of Pharmacy for consideration of credit; and

ii. The board of pharmacy in the jurisdiction where the hours were earned shall certify those hours to the Louisiana Board of Pharmacy.

iii. The Louisiana Board of Pharmacy may grant credit for all hours that comply with the Louisiana Board of Pharmacy's requirements as delineated in this section.

b. Upon written request by the pharmacy intern, the Louisiana Board of Pharmacy may certify professional experience hours earned in Louisiana to a board of pharmacy in another jurisdiction.

5. Credited hours of experience shall expire two years after the expiration date of the intern registration and shall no longer be valid for licensure purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 26:2285 (October 2000), LR 29:2086 (October 2003), effective January 1, 2004, LR 32:636 (April 2006), LR 33:1130 (June 2007), LR 34:1409 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 43:2163 (November 2017), effective January 1, 2018.

Malcolm J. Broussard
Executive Director

1711#022

RULE

Department of Health Bureau of Health Services Financing

Adult Brain Injury Facilities
Licensing Standards
(LAC 48:I.Chapter 87)

The Department of Health, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 87 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.31-40. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 87. Adult Brain Injury Facilities Licensing Standards

Subchapter A. General Provisions

§8701. Introduction

A. These rules and regulations contain the minimum licensure standards for adult brain injury facilities, pursuant to R.S. 40:2120.31-40:2120.40. Brain injuries may result in mild, moderate or severe impairments in cognition, physical functioning and psychosocial behavior. Unique care is necessary to rehabilitate and provide for the needs of these individuals in order for them to achieve their fullest capacity. It is the intent of these minimum licensing standards to protect the health, safety, and well-being of the citizens of the state who suffer from brain injuries and are receiving care in an adult brain injury facility. Contained herein are the core requirements for adult brain injury facilities as well as

level specific requirements, depending upon the services provided in the following settings:

1. residential level of care;
2. community living level of care; and
3. outpatient level of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2164 (November 2017).

§8703. Definitions

Abuse—the willful infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, unreasonable confinement and/or intimidation to such an extent that his/her health, self-determination or emotional well-being is endangered.

Acquired Brain Injury—an injury to the brain that has occurred after birth and is not hereditary, congenital, or degenerative. The injury commonly results in a change in neuronal activity, which affects the physical integrity, the metabolic activity or the functional ability of the cell. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustments. The term does not refer to brain injuries induced by birth trauma.

Activities of Daily Living (ADLs)—activities considered the basic, vital, daily activities for persons and are identified as bathing, grooming, dressing, dining, toileting and ambulation/transfer.

Adult—an individual 18 years of age or older.

Adult Brain Injury (ABI) Facility—any of the following:

1. *residential level of care*—a facility publicly or privately owned, located at one or more geographic addresses, providing a rehabilitative treatment environment which serves four or more adults who suffer from brain injury and at least one of whom is not related to the operator. Services shall include personal assistance or supervision for a period of 24 hours continuously per day preparing them for community integration. Such services shall be provided by adult brain injury facilities licensed to provide residential level of care services;

2. *community living level of care*—a home or apartment publicly or privately owned, providing a rehabilitative treatment environment which serves one to six adults who suffer from brain injury and at least one of whom is not related to the operator. Services may include personal assistance or supervision for a period of up to 24 hours continuously per day in a home or apartment setting preparing them for community integration:

- a. the apartment or home shall contain, at a minimum, a living/dining/bedroom area, kitchen/kitchenette, bathroom and storage space;

- b. there shall be no more than three bedrooms in an apartment and no more than six beds per home;

- c. such treatment environment shall be provided by adult brain injury facilities licensed to provide community living level of care services;

3. *outpatient level of care*—a facility publicly or privately owned providing an outpatient rehabilitative treatment environment which serves adults who suffer from brain injury, at least one of whom is not related to the

operator, in an outpatient day treatment setting in order to advance the individual's independence for higher level of community or transition to a greater level of independence in community or vocational function. Such services shall be provided by adult brain injury facilities licensed to provide outpatient level of care services.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, providing hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

Behavioral Services—services that identify maladaptive behaviors which interfere with the person's safe integration into the community and the formulation of an inclusive behavior management program to decrease identified maladaptive behaviors.

Brain Injury—an acquired or traumatic injury to the brain. Such term does not include brain dysfunction caused by congenital disorders, degenerative disorders or birth trauma but may include brain injuries caused by anoxia due to trauma.

Cessation of Business—the ABI facility is non-operational and/or has stopped offering or providing services to the community.

Client—an individual receiving care from an ABI facility who is medically stable and does not require an IV, a functioning feeding tube, or other artificial or mechanical supports for life sustaining processes.

Cognitive Rehabilitation—a systematic, functionally oriented service of therapeutic cognitive activities based on an assessment and an understanding of the behavior of a client. Services are directed to achieve functional improvement by either:

1. reinforcing, strengthening or re-establishing previously learned patterns of behavior; or

2. establishing new patterns of cognitive activity or mechanisms to compensate for impaired neurological systems.

Community Integration—the participation in the mainstream of community life and maintaining social relationships with family members, peers and others in the community who do not have brain injuries. Integration also means that clients have equal access to and full participation in community resources and activities available to the general public at the maximum amount of safety and independence as possible.

Department (LDH)—the Louisiana Department of Health, formerly known as Department of Health and Hospitals or DHH.

Direct Care Staff—an employee of the facility, either contracted or directly employed, who provides personal care services to the clients. Such services may include, but are not limited to, assistance with ADLs and IADLs.

Director—the person designated by the owner or governing body as responsible for carrying out the day-to-day management, administration, supervision and operation of the facility.

Employed—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired directly.

Functional Limitations—actual behaviors or mental or physical disabilities exhibited by adults with brain injuries or conditions presented by their environment, or both, that shall be modified or minimized in order for clients to fulfill their potential or maximize their functioning.

Head Injury—a traumatic or acquired brain injury.

Health Standards Section (HSS)—the agency or office within the Louisiana Department of Health with the responsibility for the inspection and licensure of adult brain injury facilities.

Impairment—any loss or abnormality of psychological, cognitive, physiological, or anatomical structure or functioning.

Instrumental Activities of Daily Living (IADLs)—activities considered to be instrumental, essential activities for persons, but are not usually considered as basic or vital activities of daily living, and may not be daily activities. Such activities include, but are not limited to:

1. socialization;
2. managing personal affairs;
3. financial management;
4. shopping;
5. housekeeping; and
6. appropriate transportation, correspondence, behavior and health management, etc.

Medication Management Program—a systematic, functionally, oriented program formulated in consultation with the client's primary provider and implemented by staff, either contracted or directly employed, and trained by a nursing director. The program shall be based upon an assessment and understanding of the behaviors of the client and recognition of the unique medical and pharmacological needs of the client. It shall also mean an incorporation of the most appropriate level of assistance necessary to advance towards independence.

Neglect—the failure to provide food, shelter, clothing, medical or other health services, appropriate security and supervision or other personal services necessary for a client's well-being.

Non-Operational—the ABI facility is not open and available for business operation as stated on the licensing application and business location signage.

Nursing Director—a person who meets the legal requirement of a registered nurse (RN) in the state of Louisiana.

Personal Care—services and supports including but not limited to:

1. bathing, hair care, skin care, shaving, nail care, oral hygiene, overall hygiene and activities of daily living;
2. interventions to assist with eating and bowel and bladder management;
3. positioning;
4. care of adaptive personal care devices; and
5. an appropriate level of supervision.

Primary Provider—a provider, board-certified in his/her specialty, who currently holds a valid license in Louisiana and is responsible for overseeing the decision making process for admission and continued stay of clients.

Rehabilitation—the process of providing those comprehensive services deemed appropriate to the needs of a client in a coordinated manner in a program designed to achieve functional objectives of improved health, welfare,

maximum physical, cognitive, social, psychological and community functioning.

Rehabilitative Treatment Environment—a rehabilitation setting that provides for all of the following:

1. a provision of a range of choices, with personal preference, self-determination and dignity of risks receiving full respect and consideration;
2. a variety of social interactions that promote community integration;
3. an environment of peer support and mentorship;
4. professional team involvement;
5. a physical environment conducive to enhancing the functional abilities of the client;
6. necessary therapeutic services which may include social work, behavioral services, speech therapy, physical therapy, occupational therapy, vocational services and therapeutic recreational services;

NOTE: All therapeutic providers shall be licensed under state and, if applicable, national boards.

7. a medication management program;
8. cognitive rehabilitation activities; and
9. the identification of functional limitations.

Representative—a person who voluntarily, with the client's written authorization, may act upon the client's direction regarding matters concerning the health and welfare of the client, including having access to personal records contained in the client's file and receiving information and notices about the client's overall care and condition.

1. No member of the governing body, administration or staff, either contracted or directly employed, of an ABI facility or any member of their family may serve as the representative for a client unless they are related to the client by blood or marriage.

2. In the case of an individual that has been interdicted, the representative is the court-appointed curator or his/her designee.

Support—activities, materials, equipment, or other services designed and implemented to assist the client with a brain injury. Examples include, but are not limited to:

1. instruction;
2. training;
3. assistive technology; or
4. removal of architectural barriers.

Therapeutic Recreational Services—services that identify leisure activities and assistance in modifying and adapting identified leisure activities to allow safe participation by the client as a means to improve quality of life and aid in integration into the community.

Traumatic Brain Injury—an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functioning disability, or psychosocial maladjustment.

Vocational Services—services provided directly or through cooperating agencies to a client in accordance with his individualized plan and designed to improve or enhance skills and behaviors necessary for successful placement in a volunteer or work setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2165 (November 2017).

§8705. Licensure Requirements

A. Any entity or person(s) that operates an ABI facility shall have a license issued from the Department of Health (LDH). LDH is the only licensing authority for ABI facilities in the State of Louisiana. It shall be unlawful to establish, open, operate, manage, maintain or conduct services of an ABI facility without possessing a current, valid license issued by LDH. Each facility shall be separately licensed.

B. The department may issue a license to an ABI facility to provide any or all of the following services:

1. residential services (a license is required for each offsite location);
2. community services; and
3. outpatient services.

C. The department may issue multiple licenses to a single facility in accordance with the number of offsite locations operated by such facility.

D. An ABI facility license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the entity or person to which it is issued and only for the specific geographic address(es) of each facility owned and operated by the entity or person;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ABI facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the ABI facility to be considered operational and retain licensed status, the facility shall meet the following conditions:

1. The residential ABI facility shall continuously have at least one employee available by telephone or telecommunications for the ABI facility 24 hours per day, 7 days per week.
2. There shall be staff member(s), either contracted or directly employed, on-site at all times when there are clients present sufficient to meet the needs of the clients.
3. The ABI facility shall have provided services to at least two clients in the preceding 12 months prior to licensure renewal.

F. The licensed ABI facility shall abide by and adhere to any state law, rules, policy, procedure, manual or memorandums pertaining to ABI facilities.

G. A separately licensed ABI facility shall not use a name which is substantially the same as the name of another ABI facility licensed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2167 (November 2017).

§8707. Initial Licensure Application Process

A. An initial application for licensing as an ABI facility shall be obtained from the department. A completed initial license application packet for an ABI facility shall be submitted to, and approved by, LDH prior to an applicant providing adult brain injury services. An applicant shall submit a completed initial licensing packet to LDH, which shall include:

1. a completed ABI facility licensure application and the non-refundable licensing fee as established by statute;
2. the type of facility or facilities the applicant intends to operate (residential, community or outpatient);
3. a copy of the approval letter of the architectural facility plans from the entity/office designated by the department to review and approve healthcare facilities' architectural and licensing plans (residential);
4. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal (OSFM) (residential and outpatient only);
5. a copy of the health inspection report with approval of occupancy from the Office of Public Health (OPH) (residential and outpatient only);
6. a copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners;
7. proof of financial viability as evidenced by one of the following:
 - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
 - b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to \$100,000 or the cost of three months of operation, whichever is less;
8. proof of general and professional liability insurance of at least \$300,000;
9. proof of worker's compensation insurance;
10. if applicable, clinical laboratory improvement amendments (CLIA) certificate;
11. disclosure of ownership and control information;
12. a readable 11x17 minimum copy floor sketch of the premises to be licensed, including room usage and dimensions (residential and outpatient only);
13. the days and hours of operation (outpatient only);
14. a copy of the articles of organization or articles of incorporation;
15. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the department will notify the applicant of the missing information and the deadline to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days of notification, the application will be closed. Once an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application has been approved by LDH, the ABI facility applicant shall notify LDH of readiness for an initial survey. If an applicant fails to

notify LDH of readiness for an initial survey within 90 days of approval of the application, the application will be closed.

1. After an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the department will issue the ABI facility an initial license to operate.

E. When issued, the initial ABI facility license shall specify the number of beds, if applicable (residential facility only) and the type(s) of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2167 (November 2017).

§8709. Initial Licensure Surveys

A. Prior to the initial license being issued to the ABI facility, an initial licensing survey shall be conducted on-site at the ABI facility to assure compliance with the ABI facility licensing standards. The initial licensing survey of an ABI facility shall be an announced survey.

B. No client shall be provided services by the ABI facility until a license is issued to the ABI facility by the LDH.

C. Once an ABI facility has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other applicable statutes, laws, ordinances, rules and regulations. These surveys shall be unannounced.

1. A plan of correction may be required from an ABI facility for any survey where deficiencies have been cited. Such plan of correction shall be submitted to LDH for approval within the prescribed timeframe.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

3. The department may issue appropriate sanctions, including, but not limited to, civil fines, directed plans of correction, provisional licensure and license revocation for deficiencies and non-compliance with any survey.

4. Pursuant to applicable state law, rules and regulations, monies collected from the imposition of civil fines shall be used for the benefit of clients in adult brain injury facilities.

D. The department's surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, participant, or person receiving services, as relevant and necessary to conduct a survey or investigation.

E. The department shall issue written notice to the facility of the results of any survey in a statement of deficiencies, along with notice for a plan of correction, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2168 (November 2017).

§8711. Complaint Investigations

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13 et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction shall be submitted by the facility for any complaint investigation where deficiencies have been cited. Such plan of correction shall be submitted within the prescribed timeframe.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal and license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be:

1. given access to all areas of the ABI facility and all relevant files during any complaint investigation; and

2. allowed to interview any facility staff or resident, as necessary or required to conduct the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2168 (November 2017).

§8713. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an ABI facility shall be displayed in a prominent place in the facility premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an ABI facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration for any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, the violation, or the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations and denial of license renewals, the decision of the informal reconsideration team

shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

6. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2168 (November 2017).

§8715. Types of Licenses

A. In the event that the initial licensing survey finds that the ABI facility is compliant with all licensing laws and regulations, and is compliant with all other applicable required statutes, laws, ordinances, rules, regulations and fees, the department shall issue a full license to the facility. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

B. In the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations or any other applicable required statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the non-compliance does not present a threat to the health, safety or welfare of the participants or persons receiving services, the department may issue a provisional initial license for a period not to exceed six months.

1. The facility shall submit a plan of correction to LDH for approval and shall be required to correct all such non-compliance or deficiencies prior to the expiration of the provisional license.

a. If all such non-compliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

b. If all such non-compliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies that are a threat to the health, safety or welfare of the client(s) are cited on the follow-up, the provisional license will expire.

i. If the applicant still wishes to operate as an ABI facility, it shall begin the initial licensing process again by submitting a new initial license application packet and fee.

C. The department may renew the license of an existing licensed ABI facility that is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked or suspended.

D. The department, in its sole discretion, may issue a provisional license to a licensed ABI facility for a period not to exceed six months, for any one of the following reasons:

1. the ABI facility has more than five deficient practices or deficiencies cited during any one survey;

2. the ABI facility has more than three validated complaints in one licensed year period;

3. the ABI facility has been issued a deficiency that involved placing a participant at risk for serious harm or death;

4. the ABI facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;

5. the ABI facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license; or

6. there is documented evidence that a representative of the facility has, with or without the knowledge or consent of facility's owner, medical director and/or administrator/director, bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular brain injury facility.

E. When the department issues a provisional license to a licensed ABI facility, the department may conduct an on-site follow-up survey at the ABI facility prior to the expiration of the provisional license. The existing facility with a provisional license is required to correct all non-compliance or deficiencies at the time the follow-up survey is conducted.

1. If the on-site follow-up survey determines that the ABI facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ABI facility license.

2. If the on-site follow-up survey determines that the ABI facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire.

a. If this occurs, the facility shall coordinate and arrange for discharge or transfer of the clients, as appropriate.

F. If a licensed ABI facility has been issued a notice of license revocation, suspension or modification, and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect the license revocation, suspension or modification, or any other sanction imposed by the department for violations prior to the denial of the renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2169 (November 2017).

§8717. Changes in Licensee Information or Key Personnel

A. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one place to another or from one person to another.

B. Any change in the facility regarding the following shall be reported in writing to the department no less than five days prior to the change:

1. entity name;

2. doing business as (dba) name;

3. geographic address;

4. mailing address and/or electronic address; and

5. telephone number(s) and fax number(s).

C. For a change in facility address, a new license with a new license number will be issued upon receipt by the department of a new completed application and the licensing fee required for a change of address. The anniversary date

shall be changed to reflect the date of issuance of the new license.

D. Any change regarding the ABI facility's key administrative personnel shall be reported in writing to the department within five days of the change. Key administrative personnel include the facility director and the nursing director. The facility's notice to the department shall include the individual's name, address, hire date and qualifications.

E. Any request for a duplicate license shall be accompanied by the required fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2169 (November 2017).

§8719. Change of Ownership

A. The license of an ABI facility is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

C. A CHOW of a facility shall not be submitted at time of the annual renewal of the facility's license.

D. Before an initial license can be issued to the new owner, all licensing application requirements in accordance with the provisions of this Chapter shall be met.

E. The applicant shall submit to the department, pursuant to §8707 above, the following licensing requirements, including but not limited to:

1. the completed facility license application and non-refundable fee;
 2. the disclosure of ownership documentation;
 3. a copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners;
 4. proof of financial viability as evidenced by one of the following:
 - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
 - b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to \$100,000 or the cost of three months of operation, whichever is less;
 5. proof of general and professional liability insurance of at least \$300,000;
 6. proof of worker's compensation insurance;
 7. if applicable, CLIA certificate of waiver;
 8. disclosure of ownership and control information;
 9. the days and hours of operation (outpatient only);
 10. a copy of the articles of organization or articles of incorporation; and
 11. any other documentation or information required by the department for licensure.
- F. An ABI facility may not undergo a CHOW if any of the following conditions exist:
1. an ABI facility whose licensure is provisional, is under revocation or is in denial of renewal;
 2. an ABI facility is in a settlement agreement with the department; and/or
 3. an ABI facility has ceased to operate and does not meet operational requirements to hold a license.

G. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

H. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2170 (November 2017).

§8721. Renewal of License

A. License Renewal Application.

1. In order to renew a license, the ABI facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license.

2. The license renewal application packet shall include:

- a. the license renewal application;
- b. a current fire inspection and a current health inspection, if applicable;
- c. the license renewal fee; and
- d. any other document required by the department.

3. Upon receipt of the completed license renewal application packet, the department shall determine if the ABI facility continues to meet the statutory and regulatory requirements for ABI facilities. The department may perform an on-site survey upon annual renewal at intervals deemed necessary by the department to determine compliance.

4. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license will result in the voluntary surrender of the ABI facility license.

a. There is no right to an informal reconsideration or an administrative appeal of a voluntary surrender of a license by the facility.

B. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2170 (November 2017).

§8723. Denial of License, Revocation of License, License Suspension and Denial of License Renewal

A. The department may deny an application for a license, may deny a license renewal, may suspend a license or may revoke a license in accordance with the provisions of the Administrative Procedure Act (APA).

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the clients or persons receiving services.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any other required statutes, laws, ordinances, rules or regulations that present a potential

threat to the health, safety or welfare of the clients or persons receiving services.

3. The department shall deny an initial license for any of the reasons that a license may be revoked or denied renewal.

C. Revocation of License, Suspension of License or Denial of License Renewal. An ABI facility license may be revoked, suspended, or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ABI facility licensing laws, rules and regulations;

2. failure to be in substantial compliance with other applicable statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold client rights whereby deficient practices may result in harm, injury or death of a client;

5. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation; or

e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof.

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical, client or facility records;

d. matters under investigation by the department or the Office of the Attorney General;

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ABI facility by the owner, director/administrator or manager;

11. an owner, officer, member, manager, director/administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

NOTE: For purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse or negligence of a person, or to the misappropriation of property belonging to another person.

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. submission of non-sufficient funds for any payment to the department;

14. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview facility staff or participants;

15. failure to allow or refusal to allow access to authorized departmental personnel to records; or

16. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ABI facility.

E. If the secretary of the department determines that violations of the facility pose an imminent or immediate threat to the health, welfare or safety of a participant or person receiving services, the secretary may suspend the license. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing of such determination.

F. In the event an ABI facility license is revoked, suspended or renewal is denied, any owner, officer, member, manager and director/administrator of such ABI facility is prohibited from owning, managing, directing or operating another ABI facility for a period of two years from the date of the final disposition of the revocation, suspension or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2170 (November 2017).

§8725. Notice and Appeal of License Denial, License Revocation, License Suspension and Denial of License Renewal

A. Notice of a license denial, license revocation, license suspension or denial of license renewal shall be given to the facility in writing.

B. The ABI facility has a right to an administrative reconsideration of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 15 calendar days from the receipt of the notice of the license denial, license revocation or denial of license renewal to request an administrative reconsideration. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by the Health Standards Section, an administrative reconsideration shall be scheduled; the facility shall be notified in writing of the scheduled date.

4. The facility shall have the right to appear in person at the administrative informal reconsideration; the facility may be represented by counsel at the administrative reconsideration.

5. Correction of a violation or deficiency which is the basis for the denial, revocation, suspension or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the administrative reconsideration.

C. The ABI facility has a right to an administrative appeal of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 30 days from receipt of the notice of the results of the administrative reconsideration of the license denial, license revocation, license suspension or

denial of license renewal to request an administrative appeal.

a. The ABI facility may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, license suspension, revocation or non-denial of license renewal.

b. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal of a license revocation or denial of license renewal is made, then the license revocation or denial of license renewal action shall be suspensive during the pendency of the appeal. The facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

4. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on an initial license denial, denial of license renewal or license revocation, the DAL, or its successor, shall conduct the hearing in accordance with the APA.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the facility's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the facility shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the facility shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance or expiration of a provisional license.

F. A facility with a provisional license that expires due to deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal only as to the validity of such cited deficiencies.

1. The correction of any deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to the whether the deficiencies were properly cited at the follow-up survey.

3. The facility shall request the informal reconsideration within five days of receipt of the notice of the results of the follow-up survey from the department.

4. The facility shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department.

5. A facility with a provisional license that expires under the provisions of this Subsection shall cease providing services unless the DAL issues a stay of the expiration. The stay may be granted by the DAL upon application by the facility at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2171 (November 2017).

§8727. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or clients.

1. Except as provided in §8729 (Temporary Inactivation of a License Due to a Declared Disaster or Emergency) and §8731 (Inactivation of License due to Non-Declared Emergency or Disaster) of these licensing regulations, a license shall be immediately null and void if an ABI facility ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or voluntary closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days advance written notice to:

- a. the department;
- b. clients; and
- c. attending physicians; and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days advance written notice, the facility shall submit a written plan for the disposition of client services-related records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed facility's client services-related records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ABI facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2172 (November 2017).

§8729. Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the facility intends to resume operation as an ABI facility in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. provides a list of each client and where that client is discharged or transferred;

2. the facility resumes operating as an ABI facility in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the ABI facility continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ABI facility license, the department shall issue a notice of inactivation of license to the ABI facility.

C. Upon completion of repairs, renovations, rebuilding or replacement, the ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ABI facility shall submit a written license reinstatement request to the licensing agency of the department at least 15 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as an ABI facility in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ABI facility license, the department may conduct a licensing survey. If the ABI facility meets the requirements for licensure and the requirements under this Section, the department will issue a notice of reinstatement of the ABI facility license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

E. No change of ownership in the ABI facility shall occur until such ABI facility has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ABI facility.

F. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ABI facility license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2173 (November 2017).

§8731. Inactivation of License due to Non-Declared Emergency or Disaster

A. An ABI facility in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the ABI facility shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ABI facility has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the ABI facility intends to resume operation as an ABI facility in the same service area;

c. the ABI facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the ABI facility's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility;

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the ABI facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

3. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to temporarily inactivate an ABI facility license, the department shall issue a notice of inactivation of license to the ABI facility.

C. Upon the ABI facility's receipt of the department's approval of request to inactivate the ABI facility's license,

the ABI facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to the OSFM and the OPH as required.

D. The ABI facility shall resume operating in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the ABI facility requires an extension of this timeframe due to circumstances beyond the ABI facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the ABI facility's active efforts to complete construction or repairs and the reasons for request for extension of the ABI facility's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ABI facility shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ABI facility license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the ABI facility has met the requirements for licensure including the requirements of this Subsection.

NOTE: The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

G. No change of ownership of the ABI facility shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ABI facility.

H. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the ABI facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2173 (November 2017).

§8733. Operating Without a License or in Violation of Departmental Regulations, Fines and Injunctive Relief

A. In accordance with applicable state laws, rules and regulations, the department shall fine any ABI facility that operates without a valid license issued by the department, or operates in violation of departmental regulations. Such fines are not to exceed two hundred fifty dollars for each day of such offense.

B. Any such fines levied and collected by the department, subject to applicable law, shall be used for the benefit of clients in ABI facilities and shall be distributed in accordance with criteria promulgated by rules of the department.

C. Notwithstanding the provisions of this Section, the department may impose a fine(s) pursuant to R.S. 40:2199 and the regulations promulgated thereunder.

D. The facility may request an administrative reconsideration and/or an administrative appeal of a fine in accordance with the delay, notice and other procedures set forth in R.S. 40:2199 and the regulations promulgated thereunder.

E. If any ABI facility operates without a valid license issued by the department, or in violation of departmental regulations, the department may cause a civil suit to be instituted in a district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons or any group operating the facility from continuing the violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2174 (November 2017).

§8735. Fees

A. Any remittance submitted to the department in payment of a required fee shall be in the form of a company or certified check or money order made payable to the "Louisiana Department of Health".

B. Fee amounts shall be determined by the department.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:

1. an initial application;
2. a renewal application;
3. a change of controlling ownership;
4. a change of name or physical address; and
5. each offsite residential location.

E. Submission of fees that are returned for non-sufficient funds may result in the license being denied, either initially or at time for renewal, revoked or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2174 (November 2017).

Subchapter B. Organization and Administration

§8741. Governing Body

A. Governing Body. The ABI facility shall have an identifiable governing body which has the responsibility and authority for the policies and procedures of the facility.

1. The governing body shall be designated in writing.

2. When the governing body of a facility is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written bylaws specifying frequency of meetings and quorum requirements. There shall be written minutes of all meetings.

3. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

B. Responsibilities of the Governing Body. The governing body of an ABI facility shall:

1. ensure the facility's compliance and conformity with the facility's policies and procedures;
2. ensure the facility's continual compliance and conformity with all relevant federal, state and local laws and regulations;
3. ensure that the facility is adequately funded and fiscally sound;
4. review and approve the facility's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the facility (a sole owner may be the director);
6. formulate and annually review, in consultation with the director, written policies concerning the facility's philosophy, goals, current services, personnel practices, job descriptions and fiscal management; and
7. annually evaluate the director's performance (if a sole owner is not acting as director).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2174 (November 2017).

§8743. Governing Body Responsibilities

A. An ABI facility shall comply with all federal, state and local laws, rules and regulations in the development and implementation of its policies and procedures. The governing body shall ensure all of the following requirements are met.

B. Policies and Procedures. The facility shall have:

1. written policies and procedures approved by the governing body that address the following:
 - a. confidentiality of client information and security of client files;
 - b. advertising;
 - c. personnel;
 - d. client's rights;
 - e. a grievance procedure to include documentation of grievances, investigation, resolution and response to complainant in a timely manner, time frame in which facility will respond, and an appeals process for grievances;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse, neglect and exploitation, and documentation and reporting of same;
 - j. incidents and accidents and documentation of same;
 - k. admissions and discharge procedures;
 - l. medication administration; and
 - m. safety of the client while being transported by an agency employee, either contracted or staff, that includes a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients;
2. minutes of formal governing body meetings;
3. organizational chart of the facility; and
4. written leases, contracts and purchase-of-service agreements (including all appropriate credentials) to which the facility is a party.

C. Organizational Communication

1. A facility shall establish procedures to assure written communication among personnel to provide continuity of services to all clients.

2. Direct care staff shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

D. Confidentiality and Security of Records. The facility shall ensure the confidentiality of client records, including information in a computerized medical record system, in accordance with applicable federal privacy laws and any state laws and regulations which provide a more stringent standard of confidentiality than the applicable federal privacy regulations and laws.

1. Information from, or copies of, records may be released only to authorized individuals, and the facility shall ensure that unauthorized individuals cannot gain access to or alter client records.

2. Original medical records shall not be released outside the facility unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

E. Clinical Records

1. A facility shall maintain a separate record for each client. Such record shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

2. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

3. Each record shall include but not be limited to at least the following information:

- a. identifying information to include at least client's name, marital status, date of birth and gender;
- b. dates of admission and discharge;
- c. client's written authorization and contact information of the representative or responsible person;
- d. name and 24-hour contact information for the primary physician and any other physician involved in the client's care;
- e. the admission assessment;
- f. individual service plan, updates and quarterly reviews;
- g. progress notes of care and services received and response to treatment;
- h. a record of all personal property and funds which the client has entrusted to the facility; and
- i. written acknowledgements that the client has received verbal and written notice of client's rights, grievance procedures and client's responsibilities.

4. Storage of any client information or records may be maintained electronically or in paper form.

a. If stored electronically, documents shall be viewable and reproducible as necessary and relevant.

F. Advertising. A facility shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients for the purposes of advertising.

1. No client shall be photographed or recorded without the client's or representatives' prior informed written consent.

a. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

b. Consent agreements shall clearly notify the client of his/her rights under this regulation and shall specify precisely what use is to be made of the photograph or recordings.

c. Consents are valid for a maximum of one year from the date of execution.

d. Clients are free to revoke such agreements at any time, either orally or in writing.

2. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

G. Personnel Policies. A facility shall have written personnel policies that include:

1. orientation, ongoing training, development, supervision and performance evaluation of personnel members;

2. written job descriptions for each position, including volunteers;

3. requirements for a health assessment of personnel prior to employment. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and is re-evaluated as recommended by the Office of Public Health;

NOTE: Policies shall be in accordance with state rules, laws and regulations for employees, either contracted or directly employed, and volunteers.

4. abuse prevention and reporting procedures that include what constitutes abuse, how to prevent it and requirement that all personnel report any incident of abuse or neglect to the director or his/her designee, whether that abuse or neglect is done by another staff member, either contracted or directly employed, a family member, a client or any other person;

5. criteria for determining employment based on the results of a statewide criminal background check conducted by the Louisiana State Police, or its designee, which shall be conducted upon hire, rehire and in accordance with facility policy for any unlicensed facility personnel:

a. the facility shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

6. clarification of the facility's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

H. Orientation

1. A facility's orientation program shall include training in the following topics for all personnel:

a. the policies and procedures of the facility, including but not limited to the prohibited use of social media;

b. emergency and evacuation procedures;

c. client's rights;

d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect of clients;

e. procedures for reporting of incidents and accidents; and

f. instruction in the specific duties and responsibilities of the employee's job and a competency evaluation of those duties and responsibilities.

2. Orientation for direct care staff, either contracted or directly employed, shall include the following:

a. training in client care services (ADLs and IADLs) provided by the facility;

b. infection control to include universal precautions;

c. any specialized training to meet clients' needs; and

d. a new employee shall not be given sole responsibility for the implementation of a client's program plan until this training is documented as successfully completed.

3. All direct care staff shall receive and/or have documentation of certification in basic life support and general first aid procedures within the first 30 days of employment. Direct care staff, either contracted or directly employed, shall have this training prior to being assigned sole responsibility for a client's care.

4. In addition to the topics listed above, orientation for direct care staff, either contracted or directly employed, shall include an evaluation to ensure competence to provide ADL and IADL assistance.

5. A new direct care staff employee shall not be assigned to carry out a client's care until competency has been demonstrated and documented.

I. Annual Training

1. A facility shall ensure that each direct care staff participates in required training each year. Routine supervision of direct care staff shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff, either contracted or directly employed, receive training on an annual basis in:

a. facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect and incidents and accidents;

e. client care services (ADLs and IADLs);

f. infection control to include universal precautions;

and

g. any specialized training to meet clients' needs.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in basic life support and general first aid.

J. Evaluation. An employee's annual performance evaluation shall include his/her interaction with clients, family, and other employees.

K. Personnel Files

1. A facility shall maintain a separate personnel record for each employee. At a minimum, this file shall contain the following:

a. the application for employment including the applicant's education, training and experience;

b. a statewide criminal background check conducted by the Louisiana State Police, or its designee,

prior to an offer of employment for any unlicensed personnel:

- i. the facility shall have documented disposition of any charges, if applicable;
- c. evidence of applicable professional credentials;
- d. documentation of required health assessment as defined in the facility's policies;
- e. annual performance evaluation;
- f. employee's hire and termination dates;
- g. documentation of orientation and annual training;
- h. documentation of competency evaluations for duties assigned, including, but not limited to, safety in transporting clients;
- i. documentation of a current, unrestricted driver's license (if driving or transporting clients);
- j. documentation of a current driver's license status inquiry report available on-line from the state Office of Motor Vehicles for staff, either contracted or directly employed, who are required to transport clients as part of their assigned duties; and
- k. comply with the provisions of R.S. 40:2179-2179.2 and the rules regarding the direct service worker registry.

2. A facility shall not release an employee's personnel file without the employee's written permission, except as required by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2175 (November 2017).

§8745. Required Staffing

A. Each ABI facility shall be staffed to sufficiently safeguard the health, safety and welfare of the clients, as required by these regulations.

B. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

1. Director

a. Each facility shall have a qualified director who is an employee of the facility. Responsibilities include the day-to-day management, supervision, operation of the facility and ensuring the individual service plan is implemented and carried out.

i. It is the responsibility of the director to contact the client's representative, if applicable, and request assistance to help the client in adjusting to the facility at the first indication of an adjustment problem.

b. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge that has the knowledge and authority to handle any situation that may occur.

c. Director Qualifications. The director shall, at least, meet one of the following criteria upon date of hire:

- i. a bachelor's degree from an accredited university or college plus two years of experience in the fields of health, social services, geriatrics, management or administration; or
- ii. a master's degree from an accredited university or college in geriatrics, health care administration, or in a human service related field or their equivalent; or

iii. in lieu of a degree, six years of experience in health, social services, geriatrics, management, administration or a combination of undergraduate education and experience for a total of six years.

d. The director shall be at least 21 years of age.

2. Nursing Director. The nursing director or an equally qualified RN shall be available by telecommunications or able to be on-site as needed 24 hours/day.

a. Qualifications. Each facility shall have a nursing director who is currently licensed as a registered nurse in Louisiana without restrictions.

b. Responsibilities. The responsibilities of a nursing director are to advance community integration through:

- i. overseeing the medication management program, including staff training to implement the program;
- ii. assisting the client in the restoration and maintenance of maximal health;
- iii. consulting the primary physician to advance the client with their medication management program;
- iv. advancing understanding of their unique medical and pharmacological needs;
- v. improving the client's quality of life; and
- vi. ensuring nursing care is provided in accordance with the client's individual service plan.

3. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program(s) of the facility.

4. Direct Care Staff

a. An ABI facility shall have staff sufficient in number and qualifications on duty at all times to meet the needs of clients.

b. An ABI facility that operates on a 24-hour basis shall have staff on duty 24 hours a day, 7 days a week.

c. Direct care staff may include care assistants, social workers, activities personnel or other staff who provide direct care services to clients on a regular basis. If employed at more than one facility, direct care staff shall notify each facility of employment and shall ensure their schedule does not overlap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2177 (November 2017).

Subchapter C. Client Protection

§8751. Client Rights

A. The facility shall have a written policy regarding client's rights. The policy shall assure the client has the right to:

1. not be deprived of civil or legal rights;
2. not be denied admission, segregated or otherwise subjected to discrimination on the basis of race, sex, handicap, creed, national background or ancestry; a facility that is a religious organization may limit admissions to its own adherents;
3. live within the least restrictive environment possible in order to retain their individuality and personal freedom; staff shall knock and request entrance before entering any bedroom;
4. be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act

autonomously, take risks to enhance independence and share responsibility for decisions;

5. be allowed to participate, and have family participate, if desired, in the planning of activities and services;

6. receive or refuse care and services that are adequate, appropriate and in compliance with conditions of residency, relevant federal and state laws, rules and regulations;

7. be free from mental, emotional and physical abuse and neglect and assured that no chemical restraints will be used;

8. have records and other information about the client kept confidential and released only with a client's expressed written consent;

9. have a service animal for medical reasons;

10. have visitors of their choice, as long as the rights of others are not infringed upon;

11. have access to private telephone communication;

12. send and receive mail promptly and unopened;

13. furnish their own rooms and use and maintain personal clothing and possessions as space permits;

14. manage his or her personal funds unless such authority has been delegated to another.

NOTE: If authority to manage personal funds has been delegated to the facility, the client has the right to examine the account during business hours;

15. have freedom to participate in accessible community activities and in social, political, medical, and religious activities and to have freedom to refuse such participation;

16. arrange for third-party services at their own expense, that are not available through the facility as long as the client remains in compliance with the conditions of residency;

17. to be informed of grievance process or procedures and receive response to grievances without fear of reprisal and to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of reprisal or other retaliation;

18. be given written notice of not less than 30 days prior to discharge from the facility, except in life-threatening emergencies and when the client is a danger to himself/herself or to others;

19. remain in the current facility, foregoing a recommended transfer to obtain additional services, if a mutually agreed upon risk agreement is signed by the client, the responsible representative (if any) and the facility as long as it does not place the facility in conflict with these or other laws or regulations;

20. receive at least a 24-hour notice prior to a change in room/unit, be informed of the reason for the move and the right to be informed when their roommate is being changed;

21. live in a physical environment which ensures their physical and emotional security and well-being;

22. retain the services of his/her own personal physician, dentist or other health care provider;

23. confidentiality and privacy concerning his/her medical and dental condition and treatment; and

24. select the pharmacy or pharmacist of their choice.

B. Each client shall be fully informed of these rights and of all rules and regulations governing clients' conduct and

responsibilities, as evidenced by written acknowledgement, prior to or at the time of admission and when changes occur. Each client's file shall contain a copy of the written acknowledgement which shall be signed and dated by the director/designee, client and/or representative.

C. A copy of these rights shall be posted conspicuously in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2177 (November 2017).

§8753. Client Association

A. The facility shall provide a formal process and structure by which clients, in representative groups and/or as a whole, are given the opportunity to advise the director regarding client services and life at the facility. Any client request, concerns or suggestions presented through this process will be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion. The facility shall have policies and procedures addressing the following:

1. the times and frequency of use of the public or communal telephone;

2. visitors;

3. hours and volume for viewing and listening to television, radio, and other media;

4. movement of clients in and out of the home;

5. use of personal property; and

6. care of pets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2178 (November 2017).

§8755. Grievance Procedure

A. The facility shall establish and have written grievance procedures to include, but are not limited to:

1. a formal process to present grievances;

2. a formal appeals process for grievances; and

3. a process to respond to client requests and/or client grievances in a timely manner, and the time frames in which the facility shall respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2178 (November 2017).

§8757 Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping of valuable possessions. The facility shall have a written statement of its policy.

1. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

2. The facility shall give the client a receipt listing each item that it is holding in trust for the client. The facility shall maintain a copy of the receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2178 (November 2017).

§8759. Client Funds

A. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any. Any charges assessed shall not exceed the actual cost incurred by the facility for the provision of the services.

B. There is no obligation for a client to deposit funds with the facility or have the facility manage his/her funds, and the facility may not require the client to deposit his/her funds with the facility. If a facility offers the service of safekeeping and if a client wishes to entrust funds, the facility shall:

1. obtain written authorization from the client and/or his/her representative to safekeeping of funds;
2. provide each client with a receipt listing the amount of money the facility is holding in trust for the client;
3. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction; and
4. not accept more than \$300 of a client's money.

C. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility shall purchase a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds of clients deposited with the facility. In addition, if a client wishes the facility to assist with the management of all their funds, the facility:

1. shall receive written authorization to manage the client's funds from the client and the representative, if applicable;
2. shall only manage a client's money when such management is mandated by the client's service plan; and
3. shall keep funds received from the client for management in an individual account in the name of the client.

D. When a client is discharged, the facility shall refund the balance of the client's personal funds to the client or representative, if applicable, on the date of discharge or no later than the last day of the month of the month of discharge.

E. In the event of the death of the client, the facility shall refund the balance of the client's personal funds to the executor of the client's estate. If there is no executor, the facility shall refund the balance to the representative or responsible party for the client. The refund shall be made within three months of the date of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2179 (November 2017).

§8761. Emergency and Evacuation Procedures

A. Disaster and emergency plans shall be developed by the governing body, and updated annually, which are based on a risk assessment using an all hazards approach for both internal and external occurrences. Disaster and emergency plans shall include provisions for persons with disabilities.

B. The facility shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and

updated at least annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the emergency.

C. The facility shall develop and maintain an emergency preparedness communication plan that complies with both federal and state laws. Client care shall be well-coordinated within the facility, across health care providers and with state and local public health departments and emergency systems.

D. Additional Requirements

1. The ABI facility shall have continuously available telephone service on a 24-hour basis.

2. The ABI facility shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance or show evidence of an alternate means of immediate access to these services.

3. The ABI facility shall have a detailed written plan and procedure including the evacuation of residences or sheltering in place as appropriate to meet all potential emergencies and disasters such as fire, severe weather and missing clients. The ABI facility shall implement this plan in the event that an emergency or disaster occurs. These emergency and evacuation procedures shall include:

a. an agreement with a host or receiving facility, transportation, medications, food and necessary items to be evacuated with clients to safe or sheltered areas. Plans that family may evacuate the client when possible;

b. means for an ongoing safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies;

c. fire prevention and evacuation plan and this plan shall be posted in each facility in a conspicuous place and kept current;

d. fire drills shall be documented for each shift at least quarterly;

NOTE: The drills may be announced in advance to the clients.

e. shelter in place when appropriate;

f. transportation arrangements for hospitalization or any other services which are appropriate;

g. maintenance of a first aid kit for emergencies; and

h. any emergency equipment appropriate for the ABI facility's client population.

E. The ABI facility shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of emergency procedures. Such training shall be provided at least annually.

F. The ABI facility shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

G. At any time that the ABI facility has an interruption in services or a change in the licensed location due to an emergency situation, the facility shall notify HSS no later than the next stated business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2179 (November 2017).

§8763. Incidents/Accidents

A. The ABI facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients. (i.e., death of unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Incidents or accidents shall be documented in the client record. An incident report shall be maintained by the facility.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. circumstances under which the incident occurred; names of clients, staff and others involved;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, bedroom, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. name and address of witnesses and their statements;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and date and time physician was notified; and
8. signatures of the staff completing the report, client and director.

C. Critical Incidents. When an incident results in death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being the facility shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident;
2. immediately notify the department and local law enforcement agency according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;
3. immediately notify the family or representative of the client;
4. provide follow-up written reports of the completed investigation to all the above persons and agencies;
5. take appropriate corrective action to prevent future incidents; and
6. document its compliance with all of the above procedures for each incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2180 (November 2017).

§8765. Abuse and Neglect

A. The ABI facility shall develop, implement and comply with facility-specific written policies and procedures related to compliance with this Section, including, but not limited to policies and procedures that include provisions for:

1. protect clients from abuse/neglect and/or injury inflicted by other clients, staff or third parties;

2. ensure that the client and/or reporter of the abuse is protected from potential harassment during the investigation;

3. ensure training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

4. ensure that procedures for reporting critical incidents involving abuse and neglect are followed; and

5. ensure that the director completes an investigation report within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2180 (November 2017).

Subchapter D. Admissions, Transfers and Discharges

§8771. Admission

A. Admission Criteria

1. The ABI facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to:

- a. the application process and the possible reasons for the rejection of an application;
- b. types of clients suitable to the ABI facility; and
- c. services offered and allowed in the ABI facility.

2. An ABI facility may accept or retain clients in need of additional care beyond routine personal care provided that:

- a. the client or the representative, if applicable, and the facility agree that acceptance or retention of the client is appropriate; and
- b. the facility has the capability of meeting the needs of the client.

B. Admissions Agreement

1. The ABI facility shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their representative. The facility contract/admissions agreement shall specify:

- a. clear and specific occupancy criteria and procedures (admission, transfer and discharge);
- b. basic services to be made available;
- c. optional services which are available;
- d. payment provisions, including the following:
 - i. covered and non-covered services; and
 - ii. payor or funding source;
- e. client's code of conduct for participation in the program and client's agreement to abide by the same;
- f. the facility shall notify the client or representative at least 30 days prior to rate changes;
- g. refund criteria;
- h. that the department has the authority to examine clients' records as part of the evaluation of the facility;
- i. division of responsibility between the facility, client, family or others (e.g., arranging for or overseeing medical care, purchase of essential or desired supplies, emergencies, monitoring of health, handling or finances);
- j. clients' rights;
- k. explanation of the grievance procedure and appeals process; and

l. the development of a service plan specific to the individual client, including participation of the client and/or representative in the development of the plan.

2. The admissions agreement shall be signed by the director and by the client and the representative, if applicable.

C. At the time of admission the ABI facility shall:

1. obtain from the client or the client's family or representative, their plan for both routine and emergency medical care to include the name of physician(s) and provisions and authorization for emergency medical care;

2. document that the client and/or representative was informed of the ABI facility's emergency and evacuation procedures; and

3. if the client has executed a medical power of attorney or an advanced directive, the facility shall maintain a copy of these documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2180 (November 2017).

§8773. Transfer or Discharge

A. The director shall, in consultation with the client and the representative, if applicable, assist in planning and implementing the transfer or discharge of the client when:

1. the client's adjustment to the ABI facility is not satisfactory as determined by the director in consultation with the client or his/her representative;

2. the client is in need of services that the facility cannot provide or obtain for the client; or

3. the client or representative has failed to pay all fees and costs stated in the admission agreement or otherwise materially breached the admission agreement.

B. When a discharge or transfer is initiated by the facility, the director shall provide the client, and his/her representative, if applicable, with 30 days prior written notice citing the reason for the discharge or transfer, except shorter notice may be given in cases where the client is a danger to self or others.

C. At the request of the client or representative and receiving facility, copies of all pertinent information shall be given to the director of the licensed facility to which the client is transferred.

D. The following discharge information shall be recorded in the client's record:

1. date of discharge;
2. transfer facility;
3. reason(s) for discharge; and
4. condition upon discharge.

E. Client records shall be retained for at least six years from the date of discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2181 (November 2017).

Subchapter E. Participation Requirements

§8777. Services

A. Assessment, Service Coordination, and Monitoring

1. Within seven days of admission, the facility shall complete an assessment to determine the needs and preferences of the client. The assessment shall include but is not limited to:

a. review of physical health, psycho-social status and cognitive status and determination of services necessary to meet those needs;

b. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;

c. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client, the client's physician, family or representative;

d. the client's interests, likes and dislikes;

e. recreational and social activities which are suitable or desirable;

f. a plan for handling special emergency evacuation needs; and

g. additional information or documents pertinent to the client's service planning, such as guardianship papers, power of attorney, living wills, do-not-resuscitate orders, or other relevant medical documents.

2. Within 30 days after admission, the facility, with input from the client, and/or his/her representative shall develop and implement a service plan using information from the assessment. The service plan shall include:

a. the client's needs;

b. the scope, frequency and duration of services and monitoring that will be provided to meet the client's needs;

c. staff responsible for providing the services inclusive of third-party providers;

d. current medication list from the client's primary care physician; and

e. identification of the level of assistance that the client requires.

3. The facility shall have a reporting procedure in place for notifying appropriate individuals of any changes in a client's condition.

4. The client's service plan shall be revised when a client's condition or preferences change and signed by the client and the representative, if applicable, and the designated facility staff.

5. The service plan shall be monitored on an ongoing basis to assess its appropriateness and to identify when a client's condition or preferences have changed.

6. A documented review of the client's service plan shall be made at least every three months.

7. All plans and reviews shall be signed by the client, facility staff and the representative, if applicable.

B. Personal and Supportive Services

1. The facility shall provide adequate services and oversight/supervision, including adequate security measures, continuously as needed for any client.

2. The facility shall provide or coordinate services, to the extent needed or desired by clients.

3. The client may participate in these services as written in his/her service plan. The following services are required to be offered:

a. assistance with all ADLs and IADLs;

b. at least three nutritious, varied, and palatable meals a day, seven days a week, that take into account client's dietary requirements, preferences and needs in residential facilities:

- i. nourishing snacks, such as fruits and beverages, shall be available to residents at all times; and
- ii. the ABI facility shall furnish medically prescribed diets to all clients for which it is designated in the service plan;
- c. basic personal laundry services in residential facilities;
- d. opportunities for individual and group socialization and to utilize community resources to create a normal and realistic environment for community interaction within and outside the facility (i.e. barber/beauty services, social/recreational opportunities);
- e. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;
- f. household services essential for the health and comfort of client (e.g. floor cleaning, dusting, bed making, etc.) in residential facilities;
- g. assistance with self-administration of medications; and
- h. a program of recreational activities.

C. Medication Management. The ABI facility shall have a medication management program. The medication management program shall be formulated in consultation with the client's primary physician and overseen by the nursing director.

1. The facility shall have written policies and procedures for the implementation of the medication management program.

2. The facility shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan, as allowed by state statute/regulations and overseen by the nursing director. Only clients who have awareness of their medication regime shall be provided assistance by direct care staff with self-administration of medications.

3. Assistance with self-administration of medications shall be limited to the following:

- a. the client may be reminded to take his/her medication;
- b. the medication regimen, as indicated on the container may be read to the client;
- c. the dosage may be verified by staff, according to the container label; and
- d. staff may physically assist the client in pouring or handling medications, including opening the medicine container (i.e. bottle, mediset, blister pak, etc.), if the client lacks the ability to open the container.

4. If the client has been assessed as able to utilize a pill organizer box, such pill organizer box may be filled by the nursing director or designee, the client with supervision or the client's representative.

5. The facility shall thoroughly review the medication administration staff's ability to follow policy and procedures regarding assisting with medication administration.

6. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance.

a. Documentation of training shall include the signature of the employee.

b. Training shall be repeated at least annually.

c. Training for direct care staff assisting with medication management shall include but not be limited to the following:

- i. legal aspects of medication assistance;
- ii. understanding roles and responsibilities in medication assistance;
- iii. definitions of medical terminology;
- iv. classifications of medications;
- v. identification of medication;
- vi. dosing and measurement of medications;
- vii. mechanism of action, therapeutic effects of drugs, and response to medications;
- viii. education on side effects, observation, reporting and documentation of side effects; and
- ix. care and safe handling of medications.

7. Direct care staff assisting with medication management shall meet the following:

- a. be a minimum of 18 years of age;
- b. able to read, write and comprehend the English language; and
- c. have no current evidence of drug use, drug abuse or diversion of drugs and no record of conviction of a felony.

8. Limitations. Medication assistance is limited to assistance with oral medication, inhalant medication, topical applications, suppository medication, eye and ear drops as prescribed and documented in the service plan.

a. Direct care staff providing medication assistance shall not assist with any intramuscular, intravenous or subcutaneous medications.

b. Direct care staff providing medication assistance shall not receive or assume responsibility for writing oral or telephone orders from a physician.

c. Direct care staff providing medication assistance shall not alter medication dosages, as delivered from the pharmacy, without being instructed to do so by the nursing director, in accordance with prescribed medication orders.

9. The facility shall ensure that a client's medications shall be securely stored by the client in the client's own bedroom or stored in a secure central location in the facility, as appropriate for each individual client.

D. Transportation

1. The facility shall have the capacity to provide or to arrange transportation as necessary for the following:

- a. medical services, including ancillary services for medically related care (e.g., physician, pharmacist, therapist, podiatrist);
- b. personal services, including barber/beauty services;
- c. personal errands; and
- d. social/recreational opportunities.

2. The facility shall ensure and document that any vehicle used in transporting clients, whether such vehicles are operated by a staff member or any other person acting on behalf of the facility, is inspected, licensed and insured in accordance with state law.

3. When transportation services are provided by the facility, whether directly or by third party contract, the facility shall document and ensure that drivers have a valid

driver's license and that drivers have a current insurable driving record as evidenced by a driver's license status inquiry report available on-line from the Office of Motor Vehicles.

4. When transportation services are provided by the ABI facility, the facility shall ensure that drivers are trained and experienced in assisting a resident being transported, in accordance with the individual client's needs and service plan.

5. Vehicles used for transporting clients shall be handicapped accessible and sufficiently equipped to safely meet the needs of the clients served.

E. Meals (Residential Facilities)

1. A facility shall ensure that a client is provided at least three meals, or their equivalent, daily and at regular times.

a. There shall not be more than 14 hours between the evening meal and breakfast of the following day, unless there is a nourishing snack served and/or available between the evening and morning meal.

b. Meal times shall be comparable to those in a normal home.

2. The facility shall make reasonable accommodations to:

a. meet religious and ethnic preferences;

b. meet the temporary need for meals delivered to the client's room;

c. meet clients' temporary schedule changes as well as clients' preferences (e.g. to skip a meal or prepare a simple late breakfast); and

d. make nutritious snacks, fruits and beverages available to clients when requested.

3. All food preparation areas (excluding areas in clients' units) shall be maintained in accordance with state and local sanitation and safe food handling standards.

4. Staff shall be available in the dining area to serve the food and to give individual assistance as needed.

5. Written reports of inspection by the OPH, Sanitarian Services shall be kept on file in the facility.

6. Specific times for serving meals shall be established and posted.

7. Meals shall be prepared and served in a way that assures that they are appetizing, attractive and nutritious and promotes socialization among the clients.

8. Food shall be palatable, sufficient in quantity and quality and properly prepared by methods that conserve the nutritive value, flavor and appearance.

9. The facility shall have kitchens and dining rooms that are appropriately and adequately furnished to serve the number of clients residing in the facility in a comfortable environment.

a. Dining room(s) may be sized to accommodate clients in either one or two settings.

b. The facility shall have a central kitchen or a warming kitchen.

c. The facility's kitchen(s) and dining room(s) shall meet applicable sanitation and safety standards and shall be well lighted and ventilated.

F. Menus (Residential Facilities)

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in a conspicuous place in the facility.

2. The facility shall furnish medically prescribed diets to clients in accordance with their service plan and shall be planned or approved by a licensed dietician.

3. Records of all menus as served shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Food Supplies

1. All food in the facility shall be labeled as safe for human consumption.

2. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served. Dry milk products may not be used, except for cooking purposes.

H. Food Protection

1. If food is prepared in a central kitchen and delivered to separate facilities, provision shall be made for proper maintenance of food temperatures and a sanitary mode of transportation.

2. Facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below.

3. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below.

4. Thermometers shall be required for all refrigerators and freezers.

5. Food stored in the refrigerator shall be covered.

6. Pets are not allowed in food preparation and serving areas.

I. Ice and Drinking Water

1. The water supply shall be adequate, of a safe sanitary quality and from an approved source.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

3. The ice scoop shall be maintained in a sanitary manner. The handle of the ice scoop shall at no time come in contact with the ice.

J. Recreation

1. The facility shall have a range of indoor and outdoor recreational and leisure opportunities to meet the needs and preferences of clients.

2. The facility shall provide and/or coordinate access to community-based activities.

3. There shall be a monthly posted list of recreational and leisure activities in the facility and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2181 (November 2017).

Subchapter F. Quality Enhancement Plan §8781. Quality Enhancement

A. An ABI facility shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the facility is in compliance with federal, state, and local laws;

2. meets the needs of the facility's clients;

3. is attaining the goals and objectives established by the facility;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual client outcomes and individual client satisfaction;

6. includes plans of action to correct identified issues that:

- a. monitor the effects of implemented changes; and
- b. result in revisions to the action plan; and

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QE plan shall include:

1. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the facility receiving services, that include, but is not limited to:

- a. review and resolution of complaints;
- b. review and resolution of incidents; and
- c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter; and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the director any identified systemic problems.

E. The facility shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2183 (November 2017).

Subchapter G. Physical Environment

§8785. General Provisions

A. Interior Space

1. The facility shall be designed, constructed, equipped and maintained to meet the accessibility needs of the clients in accordance with applicable federal and state laws, rules and regulations for persons with disabilities.

2. Handrails and sufficient lighting shall be integrated into public areas as appropriate to assist clients in ambulation.

3. Sufficient lighting shall be provided for general lighting and reading in bedrooms and common areas.

4. Night lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

5. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened, intact and operable.

6. The facility shall be kept free of hazards.

7. The facility shall have sufficient and separate storage space for administration records, cleaning supplies (janitorial), food service (supplies), lawn maintenance (equipment) and locked areas for medications.

8. Poisonous and toxic materials shall be identified, and stored in a separate cabinet used for no other purpose.

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility. The facility shall replace or repair broken, worn or defective furnishings and equipment promptly.

10. The facility shall have an effective pest control program.

11. The facility shall have a system in place to control water temperature to prevent burns and ensure client safety.

12. The facility shall be maintained at a comfortable seasonal temperature (65 to 80 degrees Fahrenheit) in all indoor public and private areas.

13. The facility shall be furnished according to the activities offered. Furniture shall be clean, safe, operable, where applicable and appropriate for the functional program. Furniture shall be available to facilitate usage by the number of clients in the facility.

B. Exterior Space

1. A facility shall ensure that the grounds and any structure thereon shall be maintained in operating condition and free from any reasonably foreseeable hazard to health and safety.

a. Garbage and rubbish stored outside shall be secured securely in noncombustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be separate from outdoor recreational space.

c. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced off or have natural barriers to protect clients.

d. Fences shall be in good repair and constructed in such a way as to provide safety and security.

2. A facility shall provide clients access to safe, suitable outdoor space designated for recreational use.

3. The parking lot shall not double as recreational space.

4. If a facility accepts clients that have dementia or other conditions that may cause them to leave or walk away from the home/facility, an enclosed area shall be provided adjacent to the home/facility so that the clients may go outside safely.

5. Signage. The facility's address or name shall be displayed so as to be easily visible from the street.

6. The facility shall ensure that exterior areas are well lit at night.

C. Common Space

1. A facility shall not share common living, or dining space with another facility licensed to care for individuals on a 24 hour basis.

2. The facility shall provide common areas to allow clients the opportunity for socialization.

3. Common areas for leisure shall be at least 60 square feet per licensed capacity.

4. Dining rooms and leisure areas shall be available for use by clients at appropriate times to provide periods of social and diversified individual and group activities.

5. Outpatient facilities and 24 hour facilities shall provide public restrooms of sufficient number and location to serve clients and visitors.

6. The facility's common areas shall be accessible and maintained to provide a clean, safe and attractive environment for the clients.

7. Space used for administration, sleeping or passage shall not be considered as dining or leisure space.

D. Laundry

1. The facility shall have provisions to provide laundry services that are adequate to handle the needs of the clients, including those with bladder and/or bowel incontinence.

2. On-site laundry facilities, if provided, shall be located in a specifically designated area and there shall be adequate space for sorting, processing and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or into food service areas.

4. Domestic washers and dryers which are for the exclusive use of clients may be provided in client areas, provided they are installed in such a manner that they do not cause a sanitation problem, offensive odors or safety concerns.

5. Universal precautions shall be followed in all laundry areas. Hand cleaning facilities shall be available in or near any laundry area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2184 (November 2017).

§8787. Residential Facilities

A. The ABI facility shall ensure that each single occupancy bedroom has a floor area of at least 100 net square feet, exclusive of bathrooms, closets or storage space and that each multiple occupancy bedroom has a floor area of at least 70 net square feet for each client. There shall be no more than two clients per bedroom. The facility shall strive to maintain a home-like environment.

B. A facility shall not use a room with a ceiling height of less than 7 feet, 6 inches as a bedroom, unless, in a room with varying ceiling heights, the portions of the room where the ceiling is at least 7 feet, 6 inches allow a usable floor space.

C. A facility shall not use as a bedroom any room which does not have a window opening to the outside.

D. Each client in the facility shall have his/her own bed. Cots, bunk beds or portable beds are prohibited.

E. A facility shall ensure that sheets, pillows and pillow cases, bedspreads and blankets are provided for each client as needed. Linens that are torn, worn or frayed shall not be utilized.

F. Each client shall be provided with individual space, in the bedroom, for personal possessions or clothing such as dressers, chest of drawers, etc.

G. Clients shall be allowed to decorate their own bedrooms with personal effects, such as pictures, etc.

H. Each bedroom shall have a closet which opens directly into the room and be of sufficient size to serve the occupants of the bedroom.

1. If the bedroom does not have a closet opening into the room, there shall be a moveable closet or armoire available in the bedroom.

2. If a moveable closet or armoire is used, this space shall not be counted in the net floor space.

I. There shall be adequate, gender segregated, toileting, bathing and hand washing facilities, in accordance with LAC Title 51, *Public Health—Sanitary Code*.

J. One bathroom shall serve no more than four beds and shall contain wash basins with hot and cold water, flush toilets and bath or shower facilities with running hot and cold water.

K. Each bathroom shall be located so that they open into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

L. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items. Tubs and showers shall have slip-proof surfaces.

M. A facility shall provide toilets, baths and showers which allow for individual privacy, unless clients require assistance for care.

N. A facility's bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the client's basic hygienic and grooming needs.

O. A facility's bathrooms shall be equipped to facilitate maximum self-help by clients. Grab bars, shower chairs, toilet extensions and other handicap aides are to be provided as needed in bathrooms.

P. Toilets, wash basins and other plumbing or sanitary areas in a facility shall continuously be maintained in operable condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2185 (November 2017).

§8789. Community Living

A. General. Community living facilities shall provide a home or apartment setting, or efficiency/studio apartments providing a rehabilitative treatment environment. The community living facility shall be equipped in a manner to help ensure clients their privacy, dignity and independence while preparing them for community integration. There shall be no more than three bedrooms per apartment or six beds per home. Each shall strive to maintain a home-like environment and shall be furnished for living. Each home/apartment shall include at a minimum:

1. a food preparation area consisting of a sink with hot and cold running water, electrical outlets in compliance with applicable laws and regulations, mini refrigerator, cooking appliance, food storage cabinets and counter space;

2. a bathroom that is shared by no more than four individuals which includes a toilet, sink and shower or tub with hot and cold running water, shall be equipped with functional aides and shall be accessible to the individual(s) using it and electrical outlets shall be in compliance with applicable laws and regulations;

3. dining/sitting/bedroom area;

4. sufficient storage/closet space;
5. an operating emergency call system (wired or wireless) is required for those clients that live alone without 24-hour on-site supervision and shall be easily accessible to those clients that live alone, in the event of an emergency and shall register at a location that is monitored at all hours of the day and night;
6. a lockable front door that can be controlled by the client;
7. heating, ventilation and air conditioning (HVAC) thermostats that can be individually controlled by the client, with a locking mechanism provided, if required to prevent harm to a client;
8. at least one operating telephone available 24 hours/day; and
9. the ABI facility shall ensure that any living situation that is selected by the client is:
 - a. accessible to and functional for the inhabitants of the living space, considering any handicapping condition or other disability of the clients;
 - b. free from any hazard to the health or safety of the clients;
 - c. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;
 - d. accessible to transportation; and
 - e. accessible to any services as required by the client's plan of services or individual program, and in compliance with applicable health, safety and sanitation codes.

B. A client may reside in an efficiency/studio apartment that shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets.

C. Homes or apartments with separate bedrooms shall have a living area (living/dining/kitchenette) of at least 190 net square feet, excluding bedroom, bathroom and closets. Each separate bedroom shall have a minimum of 100 net square feet, excluding bathroom and closet or wardrobe space.

D. Homes or apartments with a bedroom designed for two individuals shall have a minimum of 200 net square feet excluding bathrooms and closet or wardrobe space. Clients sharing a two person bedroom shall agree, in writing, to this arrangement. No bedrooms shall accommodate more than two clients.

E. Bedrooms shall contain an outside window. A room where access is through a bathroom or another bedroom is prohibited for use as a client's bedroom.

F. There shall be at least 60 net square feet of common space for each home or apartment.

G. Bathrooms shall be located so that they open into a hallway, common area or directly into the bedroom.

1. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

2. Non-skid surfacing or strips shall be installed in all showers and bathing areas. Grab bars shall be installed in all showers and bathing areas if determined to be necessary for the client(s) residing in this space.

3. Hot and cold water faucets shall be easily identifiable.

4. Bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

H. The facility shall have a written plan for providing support and supervision to the clients in supervised living situations. The plan shall ensure:

1. regular contact between the facility personnel and the client at a minimum of three times a week or as specified in the client's service plan; and

2. provisions for emergency access by clients to an appropriate facility staff member on a 24-hour basis.

I. A facility shall, through routine visits by staff to the home or apartment, determine and document that:

1. there is no reasonable cause for believing that the client's mode of life or living situation presents any risks to the client's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the client is receiving required medical care; and

4. the current plan of services provides appropriate and sufficient services to the client.

J. Staff may have and utilize pass keys to apartments or homes as may be necessary for services or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2185 (November 2017).

§8791. Outpatient Services

A. General. The ABI facility that elects to provide the outpatient level of care shall do so in a facility that meets the following space requirements.

1. At a minimum, one therapy room shall be provided within the treatment space. Use of this room for evaluations and private communication with client and/or family as well as therapy requiring privacy or seclusion shall be permitted.

2. A therapy room shall have a minimum clear floor area of 70 square feet.

3. Size requirements shall be based upon the types of services provided and the equipment used for therapeutic treatment. Sufficient space shall be provided to allow access to the equipment by the client and the therapist when in use.

4. At least one hand-washing station shall be provided within the treatment area.

5. Designated work space shall be provided for therapists and/or other staff.

6. There shall be a secure area for storage of client treatment records.

7. There shall be an administrative area available and designated for office equipment.

8. There shall be a separate toilet room for clients and staff/visitors.

9. The outpatient facility shall be in compliance with federal, state and local rules, laws and regulations applicable to persons with disabilities.

10. There shall be a waiting area for clients with sufficient seating for numbers of clients served.

B. Exterior Space. There shall be parking spaces sufficient to meet the numbers of clients served, with a covered space for drop off and pick up, maintained well-lit as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2186 (November 2017).

Rebekah E. Gee MD, MPH
Secretary

1711#068

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. - B.7. ...

C. Effective for the rate period of July 1, 2017 through June 30, 2018, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2016.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2017 state fiscal year (December 31, 2016).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2016.

4. Base capital values for the Bed Buy-Back Program (LAC 50:II.20012) purposes will be set equal to the value of these items as of July 1, 2016.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2017.

6. As of the July 1, 2018 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2017 rate period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

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 28:1473 (June 2002), repromulgated 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 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017).

Rebekah E. Gee MD, MPH
Secretary

1711#069

RULE

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

Nursing Facilities—Standards for Payment
Level of Care Pathways
(LAC 50:II.10156)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:II.10156 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10156. Level of Care Pathways

A. - C.4. ...

D. Activities of Daily Living Pathway

1. - 3.e. ...

f. toileting—includes getting on and off the toilet, wiping, arranging clothing, etc.;

D.3.g. - E.1.c. ...

2. In order for an individual to be approved under the cognitive performance pathway, the individual must have any one of the conditions noted below:

a. - b. ...

c. have a memory problem and is sometimes understood (e.g., the individual's ability is limited to making concrete requests);

d. have a short-term memory problem and is rarely or never understood;

e. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is usually understood (e.g., the individual has difficulty finding words or finishing thoughts and prompting may be required);

f. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or

unsafe, cues or supervision is required at all times) and the individual is sometimes understood, (e.g., his/her ability is limited to making concrete requests);

g. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is rarely or never understood;

h. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor and requires cues and supervision in specific situations only) and the individual is sometimes understood (e.g., the individual's ability is limited to making concrete requests); or

i. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor, cues and supervision are required in specific situations only) and the individual is rarely or never understood.

j. - m. Repealed.

F. Physician Involvement Pathway

1. ...

2. The following are investigated for this pathway:

a. physician visits occurring during the 14-day look-back period (excluding emergency room exams); and

b. physician orders issued during the 14-day look-back period (excluding order renewals without change and hospital inpatient visits).

3. In order for an individual to be approved under the physician involvement pathway, the individual must have:

a. one day of doctor visits and at least 4 new order changes within the 14-day look-back period; or

b. at least 2 days of doctor visits and at least 2 new order changes during the 14-day look-back period.

i. - iii. Repealed.

4. Supporting documentation is required and must include:

a. a copy of the physician's orders; or

b. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

c. the appropriate form designated by OAAS to document the individual's medical status and condition.

5. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

G. Treatments and Conditions Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be affecting a person's ability to care for himself/herself.

a. - h. Repealed.

2. The following are investigated for this pathway:

a. stage 3-4 pressure sores during the 14-day look-back period;

b. intravenous feedings during the 7-day look-back period;

i. - iii. Repealed.

c. intravenous medications during the 14-day look-back period;

d. daily tracheostomy care and ventilator/respiratory suctioning during the 14-day look-back period;

e. pneumonia during the 14-day look-back period and the individual had associated need for assistance with IADLs, ADLs, or restorative nursing care;

f. daily respiratory therapy provided by a qualified professional during the 14-day look-back period;

g. daily insulin injections with two or more order changes during the 14-day look-back period; or

h. peritoneal or hemodialysis during the 14-day look-back period.

3. In order for an individual to be approved under the treatments and conditions pathway, the individual must have:

a. any one of the conditions listed in G.2.a-h above; and

b. supporting documentation for the specific condition(s) identified. Acceptable documentation must include:

i. a copy of the physician's orders; or

ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

H. Skilled Rehabilitation Therapies Pathway

1. The intent of this pathway is to identify individuals who have received, or are scheduled to receive physical therapy, occupational therapy or speech therapy.

2. In order for an individual to be approved under this pathway, the individual must:

a. have received at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy during the seven-day look-back period; or

b. be scheduled to receive at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy scheduled during the seven-day look-forward period.

i. - v. Repealed.

3. Supporting documentation of the therapy received/scheduled during the look-back/look-forward period is required and must include:

a. a copy of the physician's orders for the received/scheduled therapy;

b. the home health care plan notes indicating the received/scheduled therapy;

c. progress notes indicating the physical, occupational, and/or speech therapy received;

d. nursing facility or hospital discharge plans indicating the therapy received/scheduled; or

e. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

I. Behavior Pathway

1. The intent of this pathway is to identify individuals who have experienced repetitive behavioral challenges which have impacted his/her ability to function in the community during the specified screening/assessment look-back period.

a. - d. Repealed

2. The following are investigated for this pathway:

a. wandering;

i. - iv. Repealed.

b. verbally- or physically-abusive behavior;

i. - iv. Repealed.

- c. socially-inappropriate behavior; and
 - d. delusions or hallucinations.
- d.i. - e. Repealed.

3. In order for an individual to be approved under the behavior pathway, the individual must have either:

a. exhibited any one of the following behaviors four or more days of the screening tool’s seven-day look-back period:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive; or
- iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors during the assessment tool’s three-day look-back period and behavior(s) were not easily altered:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive; or
- iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool’s look-back period.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the Adult Day Health Care Waiver, the Community Choices Waiver, Program of All Inclusive Care for the Elderly (PACE) or receiving long-term personal care services.

2. - 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 and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:2187 (November 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1711#070

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 108—Investigation of Discrimination
Complaints (LAC 37:XIII.Chapter 151)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted Regulation 108—Investigation

of Discrimination Complaints. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., “equal opportunity in insurance”).

R.S. 22:31(A) creates within the Department of Insurance a Division of Diversity and Opportunity. R.S. 22:31(C) provides that the “division of diversity and opportunity shall review all complaints alleging a violation of the provisions of this Subpart.” These complaints include employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and 33, and other types of discrimination defined in R.S. 22:34 and 35.

R.S. 22:32(B) provides that the “commissioner of insurance shall promulgate rules and regulations to implement this Subpart” and R.S. 22:35(C) provides that the “commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of this Section.”

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 151. Regulation 108—Investigation of
Discrimination Complaints**

§15101. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., “equal opportunity in insurance”), which provides the following:

1. the Department of Insurance Division of Diversity and Opportunity shall review all complaints alleging a violation of the provisions of R.S. 22:31 et seq.;

2. the commissioner of insurance shall promulgate rules and regulations to implement R.S. 22:31 et seq.; and

3. the commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of R.S. 22:35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2189 (November 2017).

§15103. Purpose, Scope, and Applicability

A. The purpose of this regulation is to implement the provisions of R.S. 22:31 et seq., which prohibit discrimination within the business of insurance, mandate the review and disposition of all complaints alleging a violation of R.S. 22:31 et seq., and require the commissioner to promulgate rules and regulations to implement R.S. 22:31 et seq.

B. This regulation sets forth procedures through which complaints concerning the following types of discrimination shall be received and investigated:

1. employment discrimination prohibited by Part IV of Chapter 3-A of Title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and R.S. 22:33; and

2. pursuant to R.S. 22:34, the making or permitting of any unfair discrimination in favor of particular persons or between insureds or subjects of insurance having

substantially like insuring risk and exposure factors or expense elements:

- a. in the terms or conditions of any insurance contract;
- b. in the rate or amount of premium charged therefor;
- c. in the benefits payable thereunder; or
- d. in any other rights or privileges accruing thereunder;
- e. Paragraph B.2 of this Section shall not prohibit fair discrimination by a life insurer as between individuals having unequal life expectancies;

3. pursuant to R.S. 22:35, the refusal to issue or the failure to renew any policy or contract of property and casualty insurance to a person, solely because of the race of the applicant or the economic condition of the area in which the property sought to be insured is located, unless such refusal to issue or failure to renew is based on sound actuarial principles or is related to actual experience.

C. Every insurer transacting business in this state shall be subject to this regulation.

D. This regulation shall not preclude or in any way limit the personal rights of action of any person against any insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2189 (November 2017).

§15105. Definitions

A. For the purposes of this regulation, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Affirmative Action Plan—a document that contains a stated purpose of the insurer to foster equal opportunities for minorities and the delineation of active steps and efforts by the insurer reasonably calculated to achieve the stated purpose.

Department—Department of Insurance.

Individual—a natural person.

Insurer—as defined in R.S. 22:46.

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15107. Eligibility; Filing a Complaint

A. Any person may file a complaint regarding any action taken by an insurer that is alleged to be the result of an insurer's engagement in discrimination as described in §15103.B of this Part. Complaints may be filed by mail, facsimile, or by using the department's consumer complaint form, available upon request from the department or on the department's website.

B. Every complaint alleging unlawful discrimination as described in §15103.B of this Part shall be filed for review with the department in written form within one year of the date the discrimination alleged was known or should have been known to the complainant.

C. Each written complaint shall state specifically the discrimination alleged to have occurred, in sufficient detail to enable the Division of Diversity and Opportunity to understand what occurred, when it occurred, and the basis of the alleged discrimination. The complaint should also contain the names and other identifying information of each party involved and any other supporting documentation relevant to the complaint.

D. When a complaint is filed by a producer, a claims adjuster, or employee of an insurer, the commissioner shall not disclose to the insurer the identity of the complainant without his or her consent. If it is determined that such disclosure is required for an administrative proceeding or other court proceeding based upon the findings of the investigation, or if such disclosure is in the interest of due process and necessary to the insurer's investigation of the complaint, then the commissioner shall notify the complainant prior to disclosure of his or her identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15109. Notification of Insurer; Responses of Insurer

A. After receipt of a complaint, the Division of Diversity and Opportunity shall notify the insurer against whom the complaint was filed. Notice to the insurer shall state the nature of the complaint and shall request that the insurer file a written response to the allegations of discrimination. The Division of Diversity and Opportunity shall submit such notice to the contact person designated by the insurer to respond to inquiries from minority groups pursuant to R.S. 22:31(A)(2).

B. Within 20 days of receipt of the notice of complaint, unless provided an extension of time by the division, the insurer shall file a written response to the allegations. The insurer's response shall be filed by mail, facsimile, or electronically. The response filed by the insurer shall respond to each complaint of discrimination alleged to have occurred. As part of the response, the insurer may submit any affirmative action plan that was in effect at the time of the alleged violation.

C. Failure of the insurer to respond timely shall result in a fine pursuant to R.S. 22:1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15111. Investigation; Findings

A. The Division of Diversity and Opportunity shall consider any affirmative action plan submitted to it, along with any other pertinent information submitted to it, in investigating complaints alleging employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.)

B. Following the completion of its review of a properly filed complaint, the receipt of the insurer's response, and any further investigation the department requires, the Division of Diversity and Opportunity shall issue its finding to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15113. Enforcement; Sanctions

A. In the event the Division of Diversity and Opportunity finds an apparent violation of R.S. 22:31 et seq., the commissioner may apply penalties as provided for in the Insurance Code.

1. for employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may issue a cease and desist order and other penalties, as provided in R.S. 22:33;

2. for violations of R.S. 22:35, the commissioner shall fine the insurer \$10,000 for each occurrence, as provided for in R.S. 22:35; or

3. for violations of R.S. 22:34, the commissioner shall issue a cease and desist order and other penalties as provided for in R.S. 22:1969 and 1970.

B. In lieu of taking action against an insurer alleged to have engaged in employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may advise the complainant to file a complaint with the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15115. Administrative Hearing

A. Prior to the imposition of a penalty or sanction for an apparent violation of R.S. 22:31 et seq., an aggrieved party affected by a decision, act, or order of the commissioner may make a written demand for a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15117. Violations Reported by Employees; Retaliation by Insurer Prohibited

A. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(A), which prohibits any insurer transacting business in this state from penalizing any of its employees for reporting to the commissioner or other appropriate authorities, in good faith, a suspected violation of the Insurance Code, including discrimination prohibited by R.S. 22:31 et seq. As provided in R.S. 22:14(A), *penalizing* shall include the following:

1. discharging, disciplining, demoting, transferring, or otherwise discriminating against an employee of the insurer;
2. reducing the benefits, pay, or work privileges of the employee of the insurer;
3. preparing a negative work performance evaluation of an employee of the insurer;
4. threatening to take any of the above actions.

B. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(C), which provides that any employee who makes a written sworn report on the activities of an insurer is not subject to civil liability for making the report and no civil cause of action may arise against the

employee for making the report. This immunity shall apply provided that the information available to the employee would support a reasonable belief that the activity, policy, or practice reported violates the Insurance Code, a rule, or the law, or impairs or endangers the solvency of the insurer. No such immunity shall apply to any report that is fraudulent or made in bad faith. Employees who intentionally make fraudulent reports or make reports in bad faith shall be guilty of the crime of false swearing and subject to the penalties provided for in R.S. 14:125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15119. Severability

A. If any Section or provision of Regulation 108 or its application to any persons or circumstances is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 108 to any persons or circumstances that can be given effect without the invalid Section or provision or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

James J. Donelon
Commissioner

1711#014

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The action has amended Statewide Order No. 29-R-17/18 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-16/17.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 20.0.

* * *

Class V Permit Waiver/Exemption/Area Permit Request—a request for a waiver or exemption from the permitting requirements of class V injection wells for certain

remediation wells/projects of short duration where remediation is accomplished by one time injection into shallow wells where casing is not installed, or a request for an area permit for remediation projects under the authority of the LDEQ or USEPA to allow deviation from the permitting requirements for class V injection wells as authorized by Statewide Order 29-N-1 (LAC 43:XVII.111 et seq.) or successor regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017).

§703. Fee Schedule for Fiscal Year 2016-2017 and Thereafter

A. - D.5. ...

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	28
Tier 2	1 - 5,000	165
Tier 3	5,001 - 15,000	474
Tier 4	15,001 - 30,000	788
Tier 5	30,001 - 60,000	1,241
Tier 6	60,001 - 110,000	1,727
Tier 7	110,001 - 9,999,999	2,162

F. - F.3. ...

G. Commercial Waste Disposal Fees

1. A monthly fee payable to the Office of Conservation of \$0.02 per barrel of exploration and production waste delivered, as reported on a form prescribed by the department to collect commercial facilities monthly report of waste receipts, from the original generator of the waste to the following facilities: Office of Conservation permitted off-site commercial facilities; transfer stations permitted by the Office of Conservation for waste transfer to out-of-state treatment or disposal facilities; and any other legally permitted Louisiana off-site waste storage, treatment of disposal facilities also approved by the Office of Conservation for the receipt of exploration and production waste. For the purposes of this Paragraph, exploration and production waste shall not include produced brine, produced water, or salvageable hydrocarbons bound for permitted salvage oil operators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998),

LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43:2192 (November 2017).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-17/18 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-17/18) supersedes Statewide Order No. 29-R-16/17 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43:2192 (November 2017).

Richard P. Ieyoub
Commissioner

1711#045

RULE

**Department of State
Elections Division**

Voting Technology (LAC 31:I.Chapter 8)

Under the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 18:21, and R.S. 36:742, the secretary of state has adopted rules regarding the conduct of private elections in Louisiana and the production and sale of maps of precincts and election jurisdictions in Louisiana.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 8. Voting Technology

Subchapter A. Private Elections

§801. Type of Election

A. The following are the different types of private elections which may be conducted utilizing the department's staff:

1. primary school, middle school, and high school elections. Examples include: the Reader's Choice elections; student government officers' elections; and homecoming elections. This type of private election would be considered an educational election with the purpose of informing students interested in voter registration and voting and would be done on a gratuitous basis with no charge for services or expenses by the department;

2. public service organizations. Examples include: active military organizations; Louisiana State Legislature; Louisiana State Police. This type of private election would be considered a public service and would be done on a gratuitous basis with no charge for services or expenses by the department;

3. disability organization elections. An example would be an election for officers of a disability organization. This type of private election would be an outreach event and would be done on a gratuitous basis with no charge for services or expenses by the department;

4. private entity or organization elections. Examples include officers for a private entity or organization such as: a union or other association; higher education student government officers; and political party elections for convention delegates. Private elections would be conducted on a reimbursement basis for services and expenses as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 43:2192 (November 2017).

§803. Private Elections Manual

A. Due to the department's primary function of conducting state elections, department staff may not be available to conduct private elections. The department shall develop and adopt a private elections manual providing procedural information on private elections, including but not limited to:

1. ballot format guidelines;
2. calendar of available dates for private elections;
3. deadlines for requesting and contracting for a private election; and
4. cost estimate information and sample contract.

B. Upon the request for a private election, a listing of all available recommended services and expenses for a particular private election and the associated costs, if any, will be estimated by the department and given to the requestor for the signing of a contract.

C. All private elections must have a signed contract, dated and returned to the department by the deadline set forth by the department. A signed contract evidences acceptance of the department's recommended services and expenses for a private election and associated costs, if any. The acceptable method of delivery of the contract is Federal Express or hand delivery to the Department of State, Elections Division, Elections Operations Section, Twelve United Plaza Building, 8585 Archives Blvd., Suite 110, Baton Rouge, LA 70809-2414.

D. Payment of private elections, if any, must be made at the time of the delivery of the contract to the department. The acceptable methods of payment for the department's services and expenses shall be by certified check or money order made payable to the Department of State.

E. If drayage services are required for a private election, payment for such services must be included with the signed and dated contract prior to the deadline set forth by the department. The acceptable method of payment shall be by separate check made payable to the drayage contractor.

F. If paper ballots are required for a private election, payment for such expense must be included with the signed and dated contract prior to the deadline set forth by the department. The acceptable method of payment shall be by separate check made payable to the ballot printing contractor.

G. Cancellations will be accepted up to two weeks prior to a private election with a 50 percent refund for department services and 100 percent refund of drayage services. No refund for ballot printing expenses will be issued unless the ballots have not been printed. Any cancellation thereafter will not be refunded.

H. All private election funds received shall be deposited into the voting technology fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 43:2193 (November 2017).

§805. Department Election Expenses

A. The cost estimate of a private election in §801.A.3 may include:

1. \$100 for one race or more races on the same ballot style;
2. \$100 for each additional ballot style; and
3. \$100 per voting unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 43:2193 (November 2017).

Subchapter B. Maps of Precincts and Election Jurisdictions

§809. Maps of Precincts and Election Jurisdictions

A. The secretary of state may produce and sell electronic images mapping precincts and election jurisdictions in Louisiana. The fee for the digital file shall be \$1 per precinct. The acceptable methods of payment are by credit card or certified check or money order made payable to the Department of State. Payment may be made online, by mail, or in person to the Department of State, Elections Division, Registration Section, 8585 Archives Blvd., P.O. Box 94125, Baton Rouge, LA 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 43:2193 (November 2017).

Tom Schedler
Secretary of State

1711#012

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Daily Take and Possession Limits of King
and Spanish Mackerel and Cobia (LAC 76:VII.327)**

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.327) by modifying the recreational bag and possession limit of king mackerel from two fish to three fish per person per day. Changes further modify existing king commercial harvest regulations by establishing in rule the commercial season for the harvest of king mackerel to begin on July 1 of each year and provide authority to the secretary of the department to modify the commercial season should it be modified in the adjacent waters of the EEZ. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

**§327. Daily Take and Possession Limits of King and
Spanish Mackerel and Cobia**

A. ...

B. The recreational bag limit for the possession of king mackerel (*Scomberomorus cavalla*) whether caught within or without the territorial waters of Louisiana shall be three fish per person, per day.

C. - E.4. ...

5. The season for the commercial harvest of king mackerel shall open on July 1 of each year and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested.

6. The secretary of the Department of Wildlife and Fisheries is authorized, upon notification of the chairman of the Wildlife and Fisheries Commission, to open, close, re-open, or re-close the commercial season for the harvest of king mackerel when informed of such a season modification in the adjacent waters of the EEZ by the National Marine Fisheries Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19:513 (April 1993), LR 26:2633 (November 2000), LR 26:2833 (December 2000), LR 43:2194 (November 2017).

Jack Montoucet
Secretary

1711#030

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Agricultural Finance Authority

2016 Louisiana Farm Recovery Grant Program
(LAC 7:III.101 and 501-509)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to authority set forth in R.S. 3:266, notice is hereby given that the Department of Agriculture and Forestry (“department”) through the Louisiana Agricultural Finance Authority (“LAFa”) intends to enact rules establishing the 2016 Louisiana Farm Recovery Grant Program (“program”). Louisiana’s agricultural industry was impacted by two major weather events in 2016. The first event occurred in March 2016 when many areas of north Louisiana received more than 30 inches of rain in a 24-48-hour time period. The LSU AgCenter estimated agricultural damage from this weather event at roughly \$90,000,000. The second event occurred in August 2016 when many areas of south Louisiana received upwards of 34 inches of rain in a 24-48-hour time period. The LSU AgCenter estimated agricultural damage at roughly \$277,000,000. \$9,500,000 of federal funds have become available to assist the state’s agricultural producers in recovering from the effects of the two storms. The source of funding for the Program is the Community Development Block Grant Disaster Recovery Program (CDBG-DR) from the United States Department of Housing and Urban Development (HUD). The Office of Community Development, Disaster Recovery Unit, who receives the CDBG-DR grant from HUD, serves as HUD’s grantee. The Department of Agriculture and Forestry, through the Louisiana Agricultural Finance Authority, is a subrecipient of funds granted to OCD-DRU and will administer the funds for the LFRGP. The total funding available to LAFa for distribution is approximately \$9,500,000. LAFa, by these rules, is establishing the program and the guidelines under which the money will be disbursed.

Title 7

AGRICULTURE AND ANIMALS

Part III. Agricultural Finance

Chapter 1. General Provisions

§101. Definitions

A. - C. ...

* * *

D. The following words and terms are defined for the purposes of the 2016 Louisiana Farm Recovery Grant Program.

Expected Gross Crop Revenue (for 2016)—the level of revenue that would have been expected to have been generated in 2016 under normal weather conditions and is calculated using the applicant’s response to the number of acres harvested in 2016, a 5-year parish average for crop yields and the estimated average market price in 2016.

Gross Crop Revenue (for 2016)—calculated by multiplying total acres harvested times the total average yield times an estimated average selling price. The estimated average selling price is calculated by dividing the applicant’s share of crop revenue by the amount of the crop marketed by the applicant.

Increases in either Harvest or Production Costs—the costs of having to replant crops that were ruined due to high levels of rainfall and flooding; costs associated with harvesting crops under excessively wet field conditions causing reduced harvest speeds and efficiency; and costs associated with increased tillage and land preparation due to damage caused to land resulting from either having to harvest under excessively wet conditions or resulting from the impact of pounding rainfall and flooding.

Loss of Stored Hay—calculated by using the number of bales destroyed and then converting them into tons of hay assuming an average bale weight of 1,200 pounds. A market value for hay lost due to flooding is then calculated using the average 2016 market price as defined by the 2016 *Louisiana Summary* publication.

Lost or Dead Cattle—cattle that were lost or killed and calculated on a value per head by for the two classes of cattle using average 2016 market prices obtained from the 2016 *Louisiana Summary* publication and assuming an average weight for calves of 500 pounds and breeding animals of 1,200 pounds.

Net Estimated Losses—the amount of losses eligible for assistance under the 2016 Louisiana Farm Recovery Grant Program calculated by the difference between the total estimated losses and any assistance received by the applicant from other sources.

Producer—one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop and assumes the production and market risks associated with the agricultural production of those crops. A corporation or farmer’s cooperative may be a “producer” if engaged in actual farming of the nature and extent there indicated.

Reductions in Grazing Availability—the economic loss associated with pastures that were flooded making grazing unavailable to cattle which is calculated using a hay equivalent methodology. The methodology assumes the economic loss is equal to the value of the amount of hay that would be needed to compensate for the lost grazing. The methodology assumes that each mature cow weighs 1,200 pounds and eats 2 percent of her body weight per day. With this information, the total amount of hay needed for the number of days grazing was unavailable is calculated. The value of that hay is then estimated using the average 2016 market price for hay as defined by the 2016 *Louisiana Summary* publication.

Total Estimated Losses (suffered by the farming operation)—a summation of the estimated economic losses associated with each crop produced and any cattle related losses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:866 (November 1984), amended LR 36:464 (March 2010), amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

Chapter 5. 2016 Louisiana Farm Recovery Grant Program

§501. 2016 Louisiana Farm Recovery Grant Program; Establishment; Purpose; Limitations

A. The 2016 Louisiana Farm Recovery Grant Program is hereby established.

B. The 2016 Louisiana Farm Recovery Grant Program provides a 100 percent grant to agricultural producers for working capital expenses related to the 2017 planting year for the purpose of aiding in the recovery from the 2016 floods.

C. The limits on the grants from the 2016 Louisiana Farm Recovery Grant Program are as follows.

1. Agricultural producers may receive a maximum grant of \$100,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§503. Eligibility of Applicant

A. An agricultural producer experiencing a 2016 flood related loss shall be eligible to receive money from the 2016 Louisiana Farm Recovery Grant Program upon meeting all of the following requirements.

1. The farm upon which a loss occurred must be located in one of the following parishes: Acadia, Allen, Ascension, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, Lafayette, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Point Coupee, Rapides, Red River, Richland, Sabine, St. Helena, St. James, St. Landry, St. Martin, St. Tammany, Tangipahoa, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana or Winn.

2. Active agricultural operations must have been ongoing before March 1, 2016 and continue to be ongoing in 2017.

3. The applicant must have annual gross farm revenue of \$25,000 in 2014, 2015 or 2016.

4. The applicant must have suffered a minimum storm related loss of \$10,000 as determined by the crop loss calculator.

5. The applicant must have grown one of the following crops in 2016: cattle, corn, cotton, crawfish, grain sorghum, hay, rice, soybeans, strawberries, sugarcane, sweet potatoes or wheat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§505. Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that fairly puts agricultural producers on notice of the 2016 Louisiana Farm Recovery Grant Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Each applicant for a grant shall submit all of the following documents to LAFA.

1. The completed application form signed by the agricultural producer, if a sole proprietorship. If the agricultural producer is not a sole proprietorship then the application form must be signed by all owners, unless an applicant has more than 10 owners.

2. Proof of Identity of the Signer of the Application. A government issued photo identification must be presented.

3. Proof of Address of the Farm. One or more of the following may be used as proof of address:

- a. a copy of utility bill;
- b. Louisiana tax return from the previous year;
- c. lease agreement;
- d. map;
- e. title to land; or
- f. a USDA Farm Service Administration (FSA) certification.

4. Proof of Ownership of the Farm. Tax returns with appropriate schedules must be presented.

5. Proof of National Objective. One or more of the following may be used as proof of employees:

- a. federal form 941;
- b. LMI form;
- c. Louisiana unemployment tax records; or
- d. internal payroll register.

6. Proof of Revenue. Tax returns with appropriate schedules must be presented.

7. Proof of Crop Loss. A completed crop loss calculator must be presented.

8. Proof of Harvesting an Eligible Crop in 2016. Tax returns with appropriate schedules must be presented in calendar year 2017.

9. Proof of Planting or Harvesting an Eligible Crop in 2017. Paid receipts, invoices, copies of checks or other evidence must be presented for expenses in calendar year 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§507. Disbursement of Funds

A. After the LAFA staff has approved an application, the proceeds of the grant shall be disbursed by LAFA's staff upon the signing of the grant documents by the applicant and LDAF's director of grant recovery programs.

B. If the total amount of proceeds to be disbursed under the 2016 Louisiana Farm Recovery Grant Program exceeds the amount of available money then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

§509. Use of Grant Proceeds

A. Grant proceeds may be used to pay current year working capital expenses that are related to the preparation, planting, management and harvesting the current year crop including, but limited to feed, bait, seed, fertilizer, fuel, chemicals, herbicides, crawfish traps, office supplies, insurance, utilities, labor/payroll, veterinarian services and

supplies, custom harvester, custom aerial applicator, and written land leases for crawfish producers.

B. Grant proceeds may not be used for any of the following:

1. acquisition of buildings or land;
2. new construction or reconstruction;
3. repayment or refinancing loans;
4. payments of tax arrearages, government fines or penalties;
5. political or religious activities;
6. buying out any stockholder or equity holder in a business;
7. buying out or reimbursing any family member;
8. investing in instruments or investments for the sole purpose of a return on investment;
9. a loss or expense for which insurance benefits has been or will be paid or financial assistance that has been or will be provided from federal, state or any other source;
10. purchasing or repairing of equipment;
11. placing new land into production.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 44:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. 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.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ashley Dupree, Director of Loan/Grant Recovery Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 1002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on January 2, 2018. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: 2016 Louisiana Farm Recovery Grant Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules establish the LA Farm Recovery Grant Program (LFRGP) and will result in additional expenditures for the LA Agricultural Finance Authority (LAFA) by up to \$10.12 M in FY 18. Furthermore, the proposed rules require the addition of 7 temporary T.O. positions. Funds associated with the expenditures are derived from a combination of self-generated revenues and federal budget authority that are entirely reimbursable through a Community Development Block Grant Disaster Recovery Program (CDBG-DR) award from the United States Department of Housing and Urban Development (HUD). The LFRGP will disburse awards to agricultural firms in Louisiana that have realized economic losses associated with the floods that occurred throughout Louisiana in 2016. Agricultural firms may receive a maximum grant award of up to \$100,000 under the auspices of the program. The LFRGP is currently operating under emergency rule. The total amount of grants to be awarded to agricultural firms is approximately \$9.5 M.

The remaining balance (approximately \$620,000) will be used to fund the 7 temporary T.O. positions and any administrative expenses associated with the LFRGP. The T.O. positions will remain only for the term of the grant.

For reference, the Division of Administration, Office of Community Development, Disaster Recovery Unit (OCD-DRU) receives the CDBG-DR grant from HUD and serves as HUD's grantee. The LA Dept. of Agriculture & Forestry, through LAFA, is a sub-recipient of funds granted to OCD-DRU and will administer the funds for the LFRGP.

The proposed rules will not impact local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent the proposed rules sustain agricultural firms, employment, and economies, the LFRGP may prevent or reduce losses of revenues via corporate, personal income, and sales tax receipts that the state and/or local governmental units may have otherwise realized in the program's absence. However, the exact revenue impact is indeterminable, as

factors other than the 2016 floods may have also impacted state and/or local tax receipts associated with agricultural activity.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will benefit agricultural firms that qualify for grant awards through the LFRGP to assist them in recovering from the floods that occurred in 2016. In the event agricultural firms meet the eligibility criteria for LFRGP grant awards, it will aid them in funding expenditures up to a maximum amount \$100,000 during the 2017 planting season. Furthermore, employees of agricultural firms that would have otherwise closed without grant aid will benefit from the proposed rule to the extent such firms remain in operation as a result of the grant award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may prevent or reduce a loss of competition among agricultural firms to the extent the LFRGP allows more firms to continue operating statewide. Furthermore, the proposed rules may also prevent or reduce a loss of employment in the agricultural sector to the extent the LFRGP allows firms to keep operating at pre-flood levels.

Dane Morgan
Assistant Commissioner
1711#072

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Logos for State Products (LAC 7:V.Chapter 29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in R.S. 3:4271, notice is hereby given that the Department of Agriculture and Forestry (“department”), intends to amend LAC 7:V.2901-2913 in order to create standards for use of a department-adopted logo for certain products.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 29. Logos for State Products

§2901. Purpose; Definitions

A. This Chapter is adopted pursuant to R.S. 3:4721 et seq. and shall govern the department’s logo program.

B. For purposes of this chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

License—written authorization from the Louisiana Department of Agriculture and Forestry for the non-exclusive use of the logo.

Licensee—applicant who applied to the department for a license to use the logo(s) and whose application was approved

Logo—the logos adopted by the department pursuant to R.S. 3:4721 to promote products made, grown, manufactured, processed, produced or substantially

transformed in the State of Louisiana. The logos include: certified Louisiana, certified Louisiana Cajun, certified Louisiana Creole, and certified Louisiana farm to table restaurant

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2903. Eligibility

A. The department shall have sole discretion to determine whether an agricultural product, restaurant or agritourism activity is eligible to be labeled with one of the certified logos. To be eligible, a company must possess and be in compliance with all applicable state and federal permits, licenses and laws.

B. In order for a product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the State of Louisiana.

C. In order for a product to be eligible to use the certified Louisiana Creole logo, at least fifty percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

D. In order for an agricultural product to be eligible to use the certified Louisiana Cajun logo, the product must be representative of the culture that is generally of Acadian descent and be at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

E. In order for a restaurant to be eligible to use the certified farm to table logo, a majority of the restaurant’s raw and value added products shall be produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2905. Application Process and Product Verification

A. Applications for use of the logos shall be made in writing on a form prescribed by the department. All applications must be signed and notarized.

B. Each application shall be accompanied by a non-refundable \$25 application fee.

C. Applicant’s proposed use of the logo shall be included in the application and is subject to review and approval by the department.

D. Within 30 days of receipt of the application by department, the department shall either grant or deny the applicant’s application to use the logo(s).

E. Upon approval of an application, a registration fee of \$30 per logo shall be paid to the department. Upon receipt of the registration payment, the department shall provide the registrant a certificate of registration and a digital jpeg and/or eps copies of the logo(s) suitable for reproduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2907. Denial of Registration

- A. Applications for use of the logo(s) may be denied if:
 - 1. the product or activity falls outside of the definition as prescribed by law.
 - 2. the product is of a quality markedly inferior to that representative of similar products produced in Louisiana;
 - 3. the applicant has misused the logo(s) prior to the date of application; or the applicant has used the logo(s) without permission of the department;
 - 4. the applicant's use of the logos would, in the department's opinion, either:
 - a. impair or frustrate the department's efforts to expand or encourage development of the markets for Louisiana agricultural and other products; or
 - b. fail to enhance the integrity and image of the program.

B. Any applicant whose request to use the logo(s) is denied may protest the department's decision by filing a notice of protest with the department within 15 days of receipt by the applicant of notice of denial. A notice of protest which has been timely filed shall be administered as a contested case as provided for the Administrative Procedure Act. If notice of protest has not been filed with the department within 15 days of receipt by the applicant of notice of denial, such denial shall become final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2909. Renewal of Registration

A. All licenses shall expire on December 31 of the third calendar year after issuance. For example, if a license is issued on July 1, 2017, it will expire on December 31, 2019.

B. Applications for renewal of registration shall be made in writing on a form prescribed by the department. The fee for renewal of registration is \$30.

C. Applicant's application for renewal of registration and \$30 renewal fee must be received on or before 5 p.m. CST on December 31 in the year in which the license expires. Upon receipt of the renewal application and renewal fee, the department will send the approved registrant a certificate of registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2911. Use of Logo

A. No person shall, in commerce, advertise, sell, offer or expose for sale, distribute, package or in any other manner identify any services or goods with the logo affixed to such service or good, unless the logo use has been previously approved by the department.

B. Any permission granted by the department to Licensee for use of the logo shall be nonexclusive and nontransferable to another person or another product. The logo may only be used on the product(s) set forth in the application and listed on the registration certificate.

C. Licensee's authorization to use the logo(s) shall not be construed to grant or assign any right, title or interest in or to the logo(s) or the goodwill attached thereto.

D. Licensee shall not alter the appearance of the logo(s) in any manner. Licensee may use the logo in any color he desires, but logo wording may not be altered.

E. Other than the authorized use of the logo(s), no licensee shall use any statement of affiliation or endorsement by the state of Louisiana or the department in the selling, advertising, marketing, packaging, or other commercial handling of products and services, or restaurants.

F. The following shall constitute misuse of the logo:

- 1. using the logo(s) on any product for which use has not been granted by the department;
- 2. using the logo(s) on a product that is not in compliance with state or federal law;
- 3. using the logo(s) in a manner that is disparaging to the department;
- 4. using the logo(s) in violation of any rule promulgated by the department.
- 5. using the logo(s) without a valid registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:

§2913. Enforcement

A. In the event that the department determines that a licensee has misused the logo(s), the department shall conduct an adjudicatory hearing in accordance with the Administrative Procedure Act in order to determine whether to suspend or revoke the licensee's permission to use the logo(s).

B. All hearings conducted pursuant to this section shall be heard by a three person hearing panel appointed by the commissioner. The commissioner may appoint a hearing officer to conduct the hearing.

C. At the conclusion of the administrative hearing, the hearing panel may recommend that the licensee's permission to use the logo(s) be suspended or revoked. The hearing panel's recommendation shall be submitted to the commissioner for his determination.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish where the violation occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016), repromulgated LR 42:541 (April 2016), amended LR 44:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- 1. the stability of the family;
- 2. the authority and rights of persons regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. 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.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Deana Erdey, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 2001, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on January 4, 2018. No preamble is available.

Mike Strain, DVM
Commissioner

Participation in the program must be renewed every three years. All revenues derived from application and registration fees will fund program expenditures.

*While this rule change will result in a revenue decrease when compared to current administrative code, the logo program is scheduled to initiate in January of 2018, thus no revenues are currently being generated. The proposed change will potentially reduce revenues, as a \$30 registration will provide for a three-year term before requiring renewal, while the existing rule required annual renewal. Because the existing program has not started, this rule promulgation will not impact an existing revenue stream, only the prospective one.

The annual revenue impact is indeterminable because LDAF does not know the number of applications that will be submitted annually. However, LDAF has records of approximately 900 products being registered for use with a previous logo program for which it never promulgated rules. To the extent 50% of the previously registered 900 products (450) register under the new LDAF Logos for State Products program, LDAF could realize revenues of approximately \$24,750 in the first year. Revenues in subsequent years are indeterminable and are dependent upon the number of renewals and new applicants the Logos for State Products program has.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities choosing to participate in the program will have to fill out an application, pay a one-time application fee of \$25, and pay a registration fee of \$30 if their application is approved. Participation in the program must be renewed every three years. Renewals will require a \$30 renewal fee. Participating entities may realize unspecified economic benefits by attaining the right to include certain logos on manufactured products, including: Certified Louisiana, Certified Louisiana Cajun, Certified Louisiana Creole, and Certified Louisiana Farm to Table Restaurant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to effect competition and employment.

Dane Morgan
Assistant Commissioner
1711#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Logos for State Products

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to result in costs or savings to state or local governmental units. The proposed rule changes modify the Logos for State Products program that is to become effective in January of 2018. The proposed changes make technical modifications to the existing rule and adjust the existing \$30 registration fees to be collected on a three-year basis instead of annually.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in an indeterminable revenue decrease for LDAF*. Applicants to the LDAF Logos for State Products program must remit a \$25 application fee to the department. If LDAF approves an application, the applicant must then pay a \$30 registration fee to use the logo on its product for the first year, a total first-year cost of \$55.

NOTICE OF INTENT

Department of Children and Family Services Child Welfare Section

Chafee Foster Care
Independence Program and Young Adult Program
(LAC 67:V.3901 and 3903)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program (CFCIP) and Young Adult Program.

Section 3901 is being amended to include the utilization of the CFCIP grant funds and to eliminate the information regarding the Young Adult Program. Section 3903 is being repealed as the Child Welfare Young Adult Program has been terminated.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 5. Foster Care

Chapter 39. Chafee Foster Care Independence Program

§3901. Chafee Foster Care Independence Program

A. The Department of Children and Family Services, Child Welfare Division will provide a Chafee Foster Care Independence Program (CFCIP) to assist youth in making preparations for living independently, including, but not limited to résumé writing, budgeting, banking and other financial skills, and conflict management skills. The CFCIP provides opportunities for youth to interact with other youth from similar backgrounds, and to receive supportive services until 26 years of age, with the exception of educational assistance via the Chafee educational and training voucher (ETV), which is available until 23 years of age.

B. The DCFS will provide CFCIP services based upon the availability of funds, up to the maximum allowable amount funded by the federal Chafee Act, in compliance with the requirements of the program, and the varying identified needs of each youth.

C. Eligibility for the CFCIP is limited to youth who meet the requirements of the program and is based on the availability of federal funding. Participants should be either: DCFS foster youth from 14 years of age to age 18; foster youth who aged out of foster care from 18 to 26 years old; foster youth who were adopted from foster care after 16 years of age to 26 years of age; Office of Juvenile Justice youth from 14 years of age to 26 years of age; youth in a court ordered guardianship from foster care initiated after 16 years of age to 26 years of age; and/or Native American youth from 13 years of age to 26 years of age who were in state or tribal custody. Youth in a secure placement (detention, jail, etc.) are not eligible for services provided by Chafee funds.

D. The allowable services and activities must be purposefully planned by the foster care worker and the youth to meet specific needs that have been identified and addressed in the youth's transitional living plan. The allowable services may include:

1. training delivered by Chafee independent living providers contracted with DCFS to prepare youth for living independently;
2. an assessment of independent living skills to identify which skills are needed and a written individualized transitional living plan, based on the assessment;
3. a monetary payment/stipend upon completing the CFCIP coursework and questionnaire, if resources allow;
4. assistance with obtaining an independent living arrangement and/or housing;
5. case management services; and
6. assistance with educational expenses, which could include educational and training voucher services, with need being determined by contracted providers.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 677 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:2205 (October 2009), amended by the Department of Children and Family Services, Child Welfare Section, LR 44:

§3903. Young Adult Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:471 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:2205 (October 2009), repealed by the Department of Children and Family Services, Child Welfare Section, LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, December 27, 2017 to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P.O. Box 3118, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on December 27, 2017 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10 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 Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Chafee Foster Care
Independence Program and Young Adult Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fees associated with the proposed rule change, it is not anticipated that the Louisiana Department of Children and Family Services (DCFS) will incur any other costs or savings as a result of this rule.

This rule change repeals LAC 67:V, Subpart 5, Foster Care, Chapter 39, Section 3903 Young Adult Program. This program was eliminated as a result of budget cuts in FY 13 generating \$1.16 M in savings in DCFS. Therefore, rules related to administering the program are being removed, as the program no longer exists.

This rule change also updates eligibility requirements for the Chafee Foster Care Independence Program (CFCIP) to reflect eligibility requirements in the existing state plan. The current rule states that youths that age out of foster care and

meet eligibility requirements can receive CFCIP services until the age of 21. However, current practice, as authorized by DCFS's state plan, is that these individuals can receive CFCIP services until the age of 26. Therefore, the rules are being updated to reflect current practice and the state plan.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will not affect current revenue collections of DCFS. Funding for the Young Adult Program was already eliminated from the DCFS budget in 2013.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have no economic cost or benefit to directly affected persons. The amendment repeals administrative rules for the Young Adult Program, as this program ceased in 2013. The amendment also updates eligibility requirements for CFCIP to reflect the state plan, which is also current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Rhenda Hodnett
Assistant Secretary
1711#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Child Welfare Section**

Daycare Services (LAC 67:V.2301)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to repeal LAC 67:V, Subpart 4, Daycare Services, Chapter 23, Daycare.

Chapter 23 is being repealed as the Child Welfare Daycare Services Program has been terminated. Additionally, the Child Care and Development Block Grant Program, which funded the Child Care Assistance Program, has been transferred to the Louisiana Department of Education in accordance with R.S. 17:407.28.

Title 67

**SOCIAL SERVICES
Part V. Child Welfare
Subpart IV. Reserved**

Chapter 23. Daycare

§2301. Daycare Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:1685 (August 2007), LR 35:961 (May 2009), LR 35:1256 (July 2009), repealed by the Department of Children and Family Services, Child Welfare Section, LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, December 28, 2017 to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P.O. Box 3118, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on December 28, 2017 at the Department of Children and Family Services, Iberville Building, 627 North 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 Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Daycare Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fees associated with the proposed rule change, it is not anticipated that the Louisiana Department of Children and Family Services (DCFS) will incur any other costs or savings as a result of this rule. This rule change repeals LAC 67: V, Subpart 4, Daycare Services, Chapter 23 Daycare Services. DCFS no longer administers this program; therefore rules regarding the program are being repealed. In 2015 the Child Care & Development Fund (CCDF) Block Grant (\$79.9 M), which supported the funding and administration of child welfare daycare services, was transferred from DCFS to the Louisiana Department of Education (DOE).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will not affect current revenue collections of DCFS. The funding for the program was transferred to the Louisiana DOE in 2015.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have no economic cost or benefit to persons receiving child welfare daycare services. The services are still being provided. However, it is now provided through the Louisiana DOE. Determination of eligibility for daycare services has not changed and services are not being interrupted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Rhenda Hodnett
Assistant Secretary
1711#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Economic Stability Section

Public Assistance Programs
(LAC 67:III.301, 307, 309, 313, 1209, 1229,
1255, 1987, 1988, 1999, 2103, 2107, 5307, and 5345)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend the *Louisiana Administrative Code* (LAC), Title 67, Part III, Economic Stability.

Amendment is pursuant to the authority granted to the department by the Food and Nutrition Act of 2008, in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR and Louisiana's Temporary Assistance for Needy Families (TANF) block grant.

Sections 301, 307, 309, and 313 are being amended to remove references to the Child Care Assistance Program (CCAP).

Section 1209, 1999, and 5307 are being amended to update circumstances in which a concurrent notice is allowable.

Section 1229 is being amended to allow a dependent care deduction for any child who is not receiving CCAP.

Sections 1255 and 5345 are being repealed and Sections 1987, 1988, and 2103 are being amended to maintain compliance with Act 265 of the 2017 Regular Session of the Louisiana Legislature, which eliminated restrictions on eligibility for certain persons with prior drug convictions.

Section 2107 is being amended to update that there are three standard benefit amounts.

The department considers emergency action necessary to clarify the programs' administrative rules and facilitate the expenditure of TANF funds, which is authorized by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature.

Title 67 SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 3. Hearings

§301. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following

meanings, unless the context of use clearly indicates otherwise.

* * *

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

* * *

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

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

§307. Time Limits for Requesting a Fair Hearing

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

- a. FITAP—30 days;
- b. STEP Program—30 days;
- c. KCSP—30 days;
- d. SNAP—90 days.

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

B. - B.2. ...

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

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

§309. Time Limits for Decisions to be Rendered

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

1. FITAP—90 days;
2. STEP Program—90 days;
3. KCSP—90 days;
4. SNAP—60 days.

B. - D. ...

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

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

§313. Continuation of Benefits

A. Recipients in all categories, except STEP Program, who request a fair hearing prior to the expiration of the advance notice of adverse action or within 13 days of the

date of concurrent notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

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

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

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

B. ...

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

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

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

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

§1209. Notices of Adverse Actions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. mass changes.

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

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

Subchapter B. Conditions of Eligibility §1229. Income

A. - B.2. ...

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

1. standard deduction of \$120;

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

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

a. an incapacitated adult;

b. a child who is not receiving CCAP; or

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

D. - G. ...

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

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

§1255. Individuals Convicted of a Felony Involving a Controlled Substance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, and R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999), repealed by the Department of Children and Family Services, Economic Stability Section, LR 44:

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households
Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Program, and households in which all members are recipients of SSI, shall be considered categorically eligible for SNAP.

2. Recipient includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. Recipient shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than \$10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

- a. any member of that household is disqualified for an intentional program violation;
- b. the household is disqualified for failure to comply with the work registration requirements.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

- a. an ineligible alien;
- b. an ineligible student;
- c. an institutionalized person;
- d. an individual who is disqualified for failure to comply with the work registration requirements;
- e. an individual who is disqualified for failure to provide or apply for a Social Security number;
- f. an individual who is on strike.

6. Households which are categorically eligible are considered to have met the following SNAP eligibility factors without additional verification:

- a. resources;
- b. Social Security numbers;
- c. sponsored alien information;
- d. residency.

7. These households also do not have to meet the gross and net income limits. If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all SNAP eligibility factors except as outlined above.

9. Changes reported by categorically-eligible SNAP households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of \$15. Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1312 (July 2014), amended by the Department of Children and Family Services, Economic Stability Section, LR 44:

§1988. Eligibility Disqualification of Certain Recipients

A. Fleeing felons and probation/parole violators are ineligible for benefits.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:

Subchapter M. Notice of Adverse Action

§1999. Reduction or Termination of Benefits

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

1. the agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or ended because of the disqualification;
2. benefits are reduced or terminated at the end of the certification period when the client timely reapplies;
3. the client has been certified in another state and that fact has been established;
4. the client signs a statement requesting closure or reduction in benefits and waives the right to advance notice;
5. benefits are reduced or terminated effective the month following the simplified report month;
6. the agency receives a written report signed by the head of the household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

7. mass changes;
8. based on reliable information, the agency determines that the household has moved or will be moving out of the state prior to the next monthly issuance;
9. the household applied for cash assistance and SNAP at the same time and has been getting SNAP benefits while waiting for approval of the cash assistance grant;

10. the client was a certified resident in a drug or alcohol treatment center or a group living arrangement which loses its state certification or FNS disqualifies it as a retailer;

11. a household certified under expedited processing rules provides postponed verification which reduces or terminates benefits.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 7 CFR 273.12(a)(1)(vii) and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 32:2270 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:

Chapter 21. Louisiana Combined Application Project (LaCAP)

Subchapter A. Household Concept

§2103. Household Definition

A. The definition of a household is an individual who is receiving supplemental security income (SSI) and:

1. is at least 60 years old;
2. has a federal living arrangement of Code "A" as determined by the Social Security Administration (SSA);
3. is not institutionalized, or otherwise ineligible for SNAP due to immigration status or an Intentional Program Violation; and
4. lives alone or declares to purchase and prepare food separately from others in a shared living situation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7 CFR Part 282, and Section 17 of the Food Stamp Act of 1977, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:

§2107. Benefits

A. Participants will receive one of three standard amounts of SNAP benefits based on the household's total combined shelter (housing and utilities) costs.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

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

§5307. Notices of Adverse Actions

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

1. the agency has factual information confirming the death of the KCSP payee;
2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

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

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

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

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

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

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

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

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

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

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

13. mass changes;

14. effective May 1, 2006, the child has been certified for supplemental security income and that fact has been established;

15. the child has been certified for foster care payments and that fact has been established.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:2565 (December 2002), LR 32:1913 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 44:

Subchapter B. Conditions of Eligibility

§5345. Individuals Convicted of a Felony Involving a Controlled Substance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, R.S. 46:231.1(B), and R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000), repealed by the Department of Children and Family Services, Economic Stability Section, LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972. The impact on the family might be positive for certain persons with prior drug convictions if they apply for public benefits and are otherwise eligible.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, December 27, 2017 to Sammy Guillory, Deputy Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on December 27, 2017 at the Department of Children and Family Services, Iberville Building, 627 North 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 Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Assistance Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

As a result of the rule change, the Department of Children and Family Service (DCFS) anticipates spending \$50,000 to make programming changes to its computer systems. Additionally, DCFS will incur \$6,177 in the expenses associated with the publication of this proposed rule change.

The proposed rule change makes technical updates and clarifies that Family Independence Temporary Assistance Program (FITAP) benefits will be reduced or terminated effective the month following the reporting of changes in a recipient's eligibility status. The rule also: (1) amends Louisiana Administrative Code (LAC), Title 67, Part III Economic Stability to remove references to the Child Care Assistance Program (CCAP), given that this program is now administered by the Louisiana Department of Education, (2) removes the one year ban on individuals convicted of a drug-related felony from receiving Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) benefits in accordance with Act 265 of the 2017 Regular Session, and (3) amends FITAP eligibility income requirements to allow a dependent care deduction for any child who is not receiving CCAP.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Due to the removal of the one year ban on individuals convicted of a drug-related felony from receiving TANF, the proposed rule change is anticipated to increase federal revenue collections for DCFS given that these individuals will be eligible for benefits for which they were not previously eligible. The amount of the increase in federal revenue collections is indeterminable at this time and is dependent on the number of new applicants.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have an economic benefit to persons that were previously ineligible for TANF and SNAP benefits due to prior drug convictions. Due to the removal of the one-year ban, these individuals will not be denied benefits due to drug-related felony convictions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Sammy Guillory
Deputy Assistant Secretary
1711#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program
Qualified Entertainment Company Payroll Tax Credit
Program (LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Motion Picture Production Tax Credit Program (R.S. 47:6007) to provide guidance for the newly created qualified entertainment company payroll tax credit provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter B. Motion Picture Investor Tax Credit Program

§1623. General

A. Purpose. The purpose of this sub-chapter is to implement the Qualified Entertainment Company Payroll Tax Credit Program as established by Act 309 of the 2017 Regular Session of the legislature, contained within the Motion Picture Production Tax Credit Program, pursuant to the provisions of R.S. 47:6007.

B. Program Description. The Qualified Entertainment Company Payroll Tax Credit Program provides payroll tax credits as an inducement for qualified entertainment companies ("QEC"s) to permanently locate new or expand existing operations in Louisiana.

C. No other LED incentives for QEC payroll expenditures. A QEC shall not receive any other incentive administered by LED that is based directly upon any QEC payroll, for which the QEC is obligated or has received benefits under the QEC Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1624. Definitions

A. Terms not otherwise defined in this subchapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Subchapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Affiliate—

- a. any business entity that is:
 - i. controlled by the QEC;
 - ii. a controlling owner of the QEC; or
 - iii. controlled by an entity described in Subparagraph a or b;
- b. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:
 - i. a majority of the voting stock or other voting interest of such business entity or the QEC; or
 - ii. stock or other interest whose value is a majority of the total value of such business entity or the QEC;
- c. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QEC nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Baseline Jobs—the number of employees of a QEC, including affiliates, working an average of 30 hours per week, during the payroll period including the twelfth of the month, in the month completed prior to the application date, as verified on the applicable ES-4 form. Baseline jobs must be maintained in any year for which the QEC requests tax credits.

Baseline Job Payroll—W-2, Box 1 wages for baseline jobs.

Contract Effective Date—the date the application and application fee are received by LED, or a later contract effective date as agreed to between the parties. The contract effective date cannot be earlier than the date the application and application fee are received by LED.

Department—Louisiana Department of Economic Development, also known as “LED.”

LDR—Louisiana Department of Revenue.

Minimum Payroll Threshold—a minimum QEC payroll of \$45,000 per new job, or for a partial year employee, shall mean \$3,750 per month for each month from the date of initial employment.

New Jobs—

- a. full-time employment in Louisiana, working an average of 30 hours or more per week;
- b. filled by Louisiana residents;
- c. at the project site;
- d. who were not previously on the QEC’s Louisiana payroll, nor previously on the payroll of the QEC’s parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical location and employees are substantially the same as those of the QEC in Louisiana, as confirmed by an independent CPA in an annual expenditure verification report submitted to LED for review, and approved by the secretary.

Office—Office of Entertainment Industry Development, also known as “OEID.”

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”).

Project Site—the facility name and street address, as stated in the QEC contract.

QEC Payroll—W-2, Box 1 wages. For a partial year employee, the minimum payroll threshold may be met if the payroll for the partial year employee meets or exceeds \$3,750 per month for each month from the date of initial employment.

QEC Payroll Tax Credits—a tax credit for expenditures related to QEC payroll, authorized by the Motion Picture Production Tax Credit Program, R.S. 47:6007.

Resident—a natural person who is required to file a Louisiana resident individual income tax return, as verified by independent CPA’s on the annual verification report.

Secretary—secretary of the Department of Economic Development.

Total Jobs—the number of baseline jobs plus new jobs.

Total Payroll—the amount of baseline jobs payroll plus new jobs payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1625. QEC Application and Application Fee

A. Application

1. A QEC application form shall be submitted to the office, via registered mail or if available, submitted electronically, to include:

- a. a detailed company description, explaining how the business is directly or indirectly engaged in the development of audio, visual, or both audio-visual entertainment products for public consumption;
- b. number of current and proposed new employees, with payroll estimates and average hours worked per week;
- c. disclosure of affiliates;
- d. most recent ES-4 tax form;
- e. any other additional information as requested by the office or the secretary.

B. Application Fee

1. A non-refundable application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, shall be submitted with the QEC application, payable to the office, as required by R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1626. QEC Application Review and Qualification Determination

A. Application Review

1. When determining which applicants may qualify, the Office and the Secretary shall consider a number of discretionary factors, including but not limited to:

- a. entertainment business type:
 - i. eligible business types- may include but not be limited to:

- (a). visual effect companies;
- (b). entertainment business back-office support;
- ii. ineligible business types- may include but not be limited to:

- (a). telecommunication;
- b. number and payroll of current and proposed new jobs;
- c. location of facility that will be the project site;
- d. number and location of similar entertainment business facilities in Louisiana;
- e. business history, i.e. start-up company or track record of established business;
- f. the impact of the business on the overall economy of the state;
- g. conviction for a criminal offense related to obtaining or attempting to obtain tax credits;
- h. availability of tax credits in any given year.

B. Qualification Determination

1. Upon a determination of qualification, LED will contact applicant to discuss contract terms and to request an expenditure verification report fee advance deposit of \$7,500.

2. Upon a determination of non-qualification, the office and the secretary shall issue a denial letter to the applicant indicating the reason for denial, and the office shall provide written notice to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. The denial letter shall be the final agency decision of LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1627. QEC Contract

A. Upon a determination of qualification, and receipt of the \$7,500 expenditure verification report fee advance deposit, the office and the secretary may enter into a QEC contract with an applicant, which shall include but not be limited to:

- 1. job and payroll estimates, per calendar year;
 - 2. tax credit reservation schedule, per fiscal year;
 - 3. expenditure verification report fees;
 - 4. procedure for requesting final certification of tax credits;
 - 5. requirements for eligibility to receive final certification of tax credits, including but not limited to retention of baseline jobs, establishment of new jobs and attainment of minimum payroll threshold;
 - 6. term for a period of up to five years, as may be offered by the office and the secretary;
 - 7. designation of a single project site in Louisiana.
- The QEC payroll tax credits the applicant shall receive will be based upon the operations at the project site.

B. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a revision to the tax credit reservation schedule, a change in ownership, a change in name or a change in location.

C. An applicant may have multiple QEC contracts covering multiple locations. The eligibility of each location shall be determined separately.

D. For each QEC contract, LED shall certify that the applicant has a net overall increase in employment statewide for each new job.

E. A QEC contract may, with the written approval of the office and the secretary, be transferred to a business entity purchasing or continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the transferee or purchaser during the 45-day period prior to the transfer or purchase.

F. The QEC contract may be renewed at the discretion of the office and the secretary, for an additional five years, if the applicant has complied with the terms of the QEC contract and has not performed any act, nor failed to perform any act, which would have made the applicant liable for suspension, and has otherwise complied with the provisions of R.S. 47:6007. The same approval process as used for the original application and QEC contract will be followed for renewal QEC contracts, including additional application and expenditure verification report advance deposit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

§1628. QEC Final Certification Procedures

A. By March 1 of every year, QEC's may request final certification of credits by filing its employee W-2's with the office and its assigned CPA, and any other additional information as requested by LED to verify conformance with statutory requirements.

B. An expenditure verification report shall then be completed by an independent certified public accountant, licensed in the state of Louisiana and assigned by LED. Failure to submit W2's by March 1 may result in credit issuance being delayed into the next available fiscal year.

C. After receipt and review of the expenditure verification report, and any other supporting documentation, the office and the secretary shall issue a final tax credit certification letter to the QEC indicating the type, credit rate and amount of credits granted, in accordance with the provisional allocations and amounts set forth in the tax credit reservation schedule, or a written denial.

1. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and made available for issuance by the office.

2. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total set forth in the tax credit reservation schedule, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

D. Tax credits shall be issued on a first come, first serve basis, until the QEC or total cap have been met, in accordance with program rules.

E. If the total amount of credits applied for in any particular year exceeds the total or QEC cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Tuesday, January 2, 2018 at 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Chris.Stelly@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, January 3, 2018 at the LaSalle Building, Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any additional savings or expenditures for state or local governmental units, as they set

forth guidelines for the Qualified Entertainment Company (“QEC”) Payroll Tax Credit created by portions of Act 309 of the 2017 Regular Session (See Part II). Any administrative duties brought about by the proposed rules will be carried out by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units. Act 309 of the 2017 Regular Session extends the \$180 M cap on credits that may be claimed in a fiscal year. All QEC Payroll Tax Credit activity must operate within the auspices of the \$180 M claim cap and \$150 M issuance cap outlined in Act 309.

Act 309 established the maximum amount of QEC payroll tax credit issuance by LED at 5% of the \$150 M credit Motion Picture Production Tax Credit Program issuance limit (\$7.5 M) per fiscal year for productions applying on or after July 1, 2017. The proposed rules further state that QECs receiving payroll tax credits shall not receive any other LED-administered incentives based upon a QEC’s payroll. As a result, QECs statewide are limited to receiving \$7.5 M in payroll benefits annually under the \$150 M issuance cap.

Furthermore, Act 309 extends the \$180 M cap on credits that firms may claim in a given fiscal year. As a result, QECs claiming the payroll credit must claim their credits prior to exhaustion of the \$180 M cap, or have their claims count against the ensuing fiscal year’s \$180 M cap. Because the cap currently exists in statute, QEC Payroll Tax Credit activity will not affect revenue collections in the aggregate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms who are eligible for QEC payroll tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit. In the aggregate, the amount of benefits QECs may realize statewide is \$7.5 M annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program’s benefits.

Anne G. Villa
Undersecretary
1711#034

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:XI.4503)

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 (BESE) approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §4503, One Year Waiver for “Severe Impact” Schools and Districts. The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools that sustained significant damage as a result of federally-declared disaster DR-4277, Louisiana Severe Storms and Flooding.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

**Subpart 1. Bulletin 111—The Louisiana School, District,
and State Accountability System**

**Chapter 45. Disaster Considerations for School and
District Accountability**

**§4503. One Year Waiver for "Severe Impact" Schools
and Districts**

[Formerly LAC 28:LXXXIII.4503]

A. - A.2. ...

3. for the 2016-2017 school year school performance scores and letter grades, any school which sustained significant damage as a result of federally declared disaster DR-4277, Louisiana Severe Storms and Flooding, such that schools temporarily relocated to another school campus or facility, or received a displaced school or entire grade levels from another school at its campus as a result of such disaster, the LDE shall use for school accountability purposes the higher of the 2016-2017 or 2015-2016 school performance score. This policy shall also apply to all schools within the East Baton Rouge Parish system. The state superintendent, with consent of the president of the board, may provide for the same in cases of extraordinary and abnormal displacement of teachers and students and hardship due to such disaster, if such displacement directly and indisputably contributed to abnormal changes in school performance scores and assessment results, based on analysis conducted by the LDE.

B. - G.2. ...

a. will not enter or advance in comprehensive or urgent intervention labels or academically unacceptable status as a result of accountability labels based on data collected during the year of the disaster; but

b. schools can exit comprehensive or urgent intervention labels based on data collected during the year of the disaster.

H. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:636 (April 2007), LR 36:1994 (September 2010), LR 37:2120 (July 2011), LR 44:

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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., December 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE:

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be potential savings for the school district, however, it is more likely that individual schools will benefit from this one year waiver to the extent the school would otherwise have received a lower school performance score. Potential costs that would otherwise have been incurred could utilize existing resources of the school or could require additional resources from the district. Per the state accountability system, potential implications for schools which are labeled academically in crisis or failing include increased resource needs for intervention and improvement programs, increased potential for students to enroll at other schools, as well as increased risk of takeover by the state Recovery School District.

The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools in the East Baton Rouge school district that sustained significant damage as a result of federally declared disaster DR-4277, *Louisiana Severe Storms and Flooding*. For those schools temporarily relocated to another school campus or facility, or which received a displaced school or entire grade levels from another school at its campus as a result of such disaster, the school performance score shall be the higher of the 2016-2017 or 2015-2016 school performance score. This policy shall apply to all schools within the East Baton Rouge Parish System as well as the district performance score.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1711#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapters 3-40)

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 to revise *Bulletin 126—Charter Schools*: §309. Charter Authorizer Reporting Requirements; §311. Application Process for Locally-Authorized Charter Schools; §313. Local School Board Consideration of Charter Application, Awarding of Charters; §501. Organization of Nonprofit Corporation; §503. Eligibility to Apply for a Type 2 Charter School; §511. Application Process; §512. Application Process for Locally-Authorized Charter

Schools; §513. Stages of Application Cycle for BESE-Authorized Charter Schools; §515. Application Components; §518. BESE Pre-Opening Procedures Following Approval; §519. Local School Board Consideration of Charter Application, Awarding of Charters; §521. Charter School Replication; §701. Charter School Contract with BESE; §901. Timeline for Opening; §1101. Evaluation; §1103. Alternate Charter Schools; §1105. Intervention Process for Charter Schools; §1303. Extension Review; §1501. Renewal of Charter; §1503. BESE Processes for Charter Renewal; §1503. Charter Renewal Process and Timeline; §1505. Eligibility for Renewal for BESE-Authorized Charter Schools; §1507. Renewal Term Length for BESE-Authorized Charter Schools; §1509. Automatic Renewal of Charter Schools; §1601. Closure; §1901. Charter Amendments; §1903. Material Amendments for BESE-Authorized Charter Schools; §1905. Non-Material Amendments for BESE-Authorized Charter Schools; §2101. Board of Director Composition; §2107. Prohibitions; §2301. State Funding; §2303. Local Education Agency (LEA) Status and Federal Funding; §2501. Qualified and Competent Business Professional; §2505. Financial Reporting; §2509. Assets; §2701. Students Eligible to Attend; §2703. Enrollment Capacity; §2705. Admission Requirements; §2707. Application Period; 2709. Enrollment of Students, Lottery, and Waitlist; §2711. Enrollment Preferences for BESE-Authorized Charter Schools; §2801. Transportation Requirements; §2805. Parent Volunteers at BESE-Authorized Charter Schools; §2901. Employment of Staff; §2905. Criminal History Review; §2911. Evaluation and Assessment; §3101. Required Notifications; §3301. Charter Operator Complaint Procedure; §3501. Volunteer Programs; §3703. Curriculum in Virtual Charter School; §4001. Applicability of State and Local Rules and Regulations; §4003. Applicability of State Laws; and §4005. Other Statutory Requirements.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 3. Charter School Authorizers

§311. Application Process for Locally-Authorized Charter Schools

A. Application Cycle

1. Local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. BESE shall approve at least one charter application cycle for the local district timeline per year. The department may extend approved cycles or provide for additional cycles, and shall notify BESE of any such changes.

2. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

3. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent

reviewers for consideration prior to issuing a final recommendation to the chartering authority.

4. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

5. The local school board shall notify the department of the receipt of charter applications and any board action taken on such applications in accordance with procedures developed as part of the local district timeline.

6. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for its consideration during the next approval cycle prior to being submitted to BESE.

B. Common Charter Application

1. Each local school board shall use a common charter application developed by the department and approved by BESE, but may request additional information from applicants as needed.

2. BESE shall annually approve the common application to be used by local school boards. If there are no changes to be made to the common application from a previous year, BESE will not be required to vote to approve the common charter application.

C. Appeals to State Process

1. If a charter applicant believes that a local school board has not complied with the requirements in §306 of this policy, the charter applicant may submit its proposal to BESE for its review and approval as a type 2 charter as part of the annual request for applications.

a. Upon local receipt of the application from the local charter applicant, the department shall investigate and make a determination as to whether the local school board failed to comply with §306 of this policy.

b. If the department determines that the local school board failed to comply with §306, it shall notify the local school board of that determination within 30 days, and BESE may proceed with its own review of the charter application.

2. The charter applicant may submit a proposal to BESE for its review and approval as a type 2 charter for other reasons as provided for in §503 of this bulletin.

D. Partnerships with the Department

1. A local school board may enter into an agreement with the Louisiana Department of Education by which the department will conduct the local school board's charter application and evaluation process, Local school boards that have entered into such agreements shall be exempt from Subsection A of this Section, and shall instead follow timelines established by the department.

2. The department shall create the process and timeline by which such agreements can be created and implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, 17:93, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 44:

§313. Local School Board Consideration of Charter Application, Awarding of Charters

A. 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 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.

B. Local school boards may approve requests to establish a type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

2. A type 3B charter school shall retain its type 5 academic accountability history, including, but not limited to prior school performance scores. The performance of a type 3B charter school shall be included in the local school district's district performance score.

3. Throughout initial and all subsequent renewal charter terms, the type 3B charter contract shall:

a. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer;

b. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

c. prohibit the charter school from establishing admissions requirements; and

d. require any school that participated as a type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile away from the school.

4. The length of the initial term for the type 3B charter school shall be equal to the number of years remaining on the charter school's former type 5 charter contract or the number of years approved by BESE for the renewal term of the type 5 charter school if the charter contract for the type 5 charter school was set to expire at the conclusion of the school year in which the charter school makes a request to transfer to the local school board pursuant to this Section.

5. If granted a renewal, in determining the length of the term for the first renewal of the type 3B charter contract, the local school board shall set the length of the renewal term to be three or more years, not to exceed the number of years the charter school would be granted under the "maximum charter renewal terms" contained in §1503 of this Bulletin. Differing academic performance standards for the first renewal of the charter contract must be approved by BESE. Subsequent renewal term lengths shall be determined by the local school board.

6. At the time of transfer, the type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school's local education agency. A type 3B charter school acting as its own local education agency shall comply with the requirements provided for in §2303 of this bulletin.

C. For each locally-authorized charter school which has met the performance criteria below, a charter operator may open and operate two additional schools that serve the same grade levels and the same enrollment boundaries as the school meeting the automatic renewal criteria without formal application to the local school board.

1. The charter school must have:

a. A letter grade of "A" or "B", or an equivalent school performance score (SPS);

b. Met or exceeded for the three preceding school years the benchmarks established for it by the local school board in accordance with the school and district accountability system;

c. Demonstrated growth in student academic achievement for the three preceding school years; and

d. Had no significant audit findings during the term of the charter agreement.

2. The charter operator shall notify the local school board of its intent to open one or two such additional charter schools at least 120 calendar days prior to the day on which each additional school shall enroll students.

3. At least 90 calendar days prior to the day on which each additional school shall enroll students, the local school board shall enter into a charter agreement with the chartering group for each additional school and shall notify BESE of its action.

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 44:

Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

§501. Organization of Nonprofit Corporation

A. A nonprofit corporation may be formed for the purpose of submitting an application for a charter school by:

A.1. - A.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981(3), and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 44:

§503. Eligibility to Apply for a Type 2 Charter School

A. - A.5.a. ...

b. has conditions that have been placed on it that are unacceptable to the group proposing the charter as provided for in Paragraph D of this Section; or

c. the local school board has not complied with the requirements of a local charter authorizer, as provided for in §311.C of this bulletin; or

d. the local school board has made no final decision in accordance with the timelines established by BESE for consideration of type 1 and 3 charter applications by local school boards as provided for in §311 of this bulletin; and

e. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. ...

C. If the local school system in which a charter group intends to apply to operate a type 1 or type 3 charter school has received a letter grade designation of "D" or "F" or any variation thereof, then a proposal for a type 2 charter school may be made to BESE.

D. Type 2 Charter Appeals Based on Conditions

1. Each approved charter may be approved subject to whatever other resolutive or suspensive conditions the chartering authority requires provided the charter school agrees with the conditions.

2. If the local board seeks to amend the charter contract in a manner that is unacceptable to the charter school or if the charter school finds requested terms for charter renewal to be unacceptable, the charter school may petition BESE to convert to a Type 2 charter school.

3. A charter school may request a Type 2 charter appeal based on:

a. resolutive or suspensive conditions imposed on the approved charter by the local school board that the charter school does not agree with; or

b. amendments being imposed on the charter contract or new terms in the renewal contract by the local school board that the charter school finds to be unacceptable.

4. A charter school requesting an appeal under this section shall do so in accordance with timelines and procedures developed by the department.

5. The state superintendent may disqualify a charter school from submitting a type 2 charter appeal under this section to BESE if the conditions imposed by the chartering authority are required by state law or policy.

E. The eligibility criteria set forth in this section shall be the minimum criteria necessary to be approved for a type 2 charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:

§511. Application Process for BESE-Authorized Charter Schools

A. Application Cycle

1. All type 2, type 4, and type 5 charter applications will be received, reviewed, and approved pursuant to a charter application cycle.

2. Type 2, type 4, and type 5 charter applications must be submitted in accordance with a charter application cycle to be considered by BESE.

3. BESE shall approve at least one charter application cycle per year for the submission of type 2, type 4, and type 5 charter school applications.

4. The department may extend approved cycles or provide for additional cycles for the submission of type 2, type 4, and type 5 charter school applications, and shall notify BESE of any such changes.

B. - B.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:

§512. Application Process for Locally-Authorized Charter Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011), amended LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:81 (January 2013), LR 40:761 (April 2014), repealed LR 44:

§513. Stages of Application Cycle for BESE-Authorized Charter Schools

A. - B.2. ...

C. Evaluators shall make recommendations to the Department of Education for approval or denial of each charter school application.

D. ...

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 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 44:

§515. Application Components for BESE-Authorized Charter Schools

A. ...

B. A framework of all BESE requests for applications, which shall include an assurance that all required sections are or will be included in the final request for applications, must be submitted to BESE by the department prior to the release of the request. In cases of a type 5 charter operator voluntarily relinquishing its charter, the state superintendent of education may issue an emergency request for applications and BESE shall be notified of such action within two business days. The Department of Education may accept charter applications in a single submission or may structure a process to accept applications in a set of sequential, cumulative submissions.

C. ...

D. The charter school application questions for all types of charter schools shall address the following:

1. - 4. ...

5. 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. - 37. ...

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 BESE indicating

progress toward meeting the performance objectives as stated in the charter;

D.39. - H.11. ...

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 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 44:

§518. BESE Pre-Opening Procedures Following Approval

Repealed.

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 37:870 (March 2011), amended LR 37:2385 (August 2011), LR 39:1432 (June 2013), LR 41:1263 (July 2015), repealed LR 44:

§519. Opening of Additional Charter Schools in BESE-Approved Application

A. A charter operator may open additional schools included in its approved charter application if the following performance targets for all Louisiana charter schools currently operated by the charter operator are met:

1. No charter schools have a letter grade of "F" or an equivalent school performance score (SPS); and

2. All charter schools have:

a. a letter grade of "C" or higher or an equivalent SPS; or

b. a letter grade of "D" or higher or an equivalent SPS, and a progress index equivalent to an "A" letter grade.

3. All BESE-authorized charter schools have earned designations of "meets all expectations" or "meets most expectations" for financial and organizational performance as provided for in the Charter School Performance Compact in each of the previous three years of operation, or for every year of operation if the school has been open less than three years; and

4. The charter operator notifies the department of the planned school opening according to timelines developed by the department.

B. The department may consider the financial and organizational performance of charter schools authorized by local school boards as appropriate.

C. If the charter operator contracts with a management organization, the state superintendent may consider the performance of other charter schools affiliated with the management organization in determining whether or not the charter operator is allowed to open an additional approved school.

D. The state superintendent may waive one or more of the required performance criteria for:

1. charter schools that are in the first or second year of operation that have not yet received been evaluated for academic, financial, or organizational performance;

2. charter schools approved as alternative schools pursuant to Bulletin 111 or charter schools that are evaluated pursuant to an alternate framework as provided for in §1103 of this bulletin; or

3. a circumstance where anticipated new students in the charter school being proposed to open would otherwise

predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

E. The department shall notify BESE prior to the opening of any charter school pursuant to this section.

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 44:

**§521. Charter School Replication for BESE-
Authorized Charter Schools
(Formerly §523)**

A. A charter operator may open and operate up to two additional charter schools without making a formal application to BESE:

1. the average of the school performance scores of all Louisiana charter schools operated by the charter operator is equivalent to a letter grade of “B” or higher for the previous three school years; and

2. the average progress index of all Louisiana charter schools operated by the charter operator is equivalent to a letter grade of “A” for the previous three school years;

3. all BESE-authorized charter schools operated by the charter operator have earned designations of “Meets All Expectations” or “Meets Most Expectations” for financial and organizational performance as provided for in the charter school performance compact in each of the previous three years of operation.

B. If the charter operator contracts with a management organization, the state superintendent may consider all charter schools operating in Louisiana affiliated with the management organization in determining whether or not the charter operator meets the academic requirements above.

C. The new charter schools must serve the same grade levels and enrollment boundaries as one of the operator’s charter schools currently in operation that meets the eligibility criteria outlined above.

D. The type of charter schools the charter operator may open shall be determined as follows.

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 2	<ul style="list-style-type: none"> • New Type 2; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507, and meeting the other eligibility requirements to apply for a Type 2 in §503; • May be a Type 5 subject to approval by the RSD to transform a school under the jurisdiction of the RSD
Type 4	<ul style="list-style-type: none"> • Type 4
Type 5	<ul style="list-style-type: none"> • New Type 2, subject to the approval of the state superintendent; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507, and meeting the other eligibility requirements to apply for a Type 2 in §503; • May be a Type 5 subject to approval by the RSD to transform a school under the jurisdiction of the RSD

E. The charter operator shall notify BESE of its intent to open one or two additional charter schools pursuant to this Section at least 120 calendar days prior to the day on which each additional school shall enroll students.

F. At least 90 calendar days prior to the day on which each additional school shall enroll students, BESE shall enter into a charter agreement with the chartering operator for each additional school and shall notify BESE of its action.

G. The charter operator must complete all processes and required by law and BESE policy to open a school, including, but not limited to the procurement of all required permits, inspections and approvals necessary to safeguard student safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013), LR 43:308 (February 2017), LR 44:

§523. Charter School Replication

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013), LR 43:308 (February 2017), repealed LR 44:

**Chapter 7. Charter School Contract for BESE-
Authorized Charter Schools**

§701. Charter School Contract with BESE

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements developed by the department.

B. The department may condition the execution of the charter contract or the opening of a school on completion of one or more pre-opening requirements.

C. The charter school contract shall represent the legal agreement between BESE and the charter operator, which defines the rights and responsibilities of the parties.

D. 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:

1. provisions regarding the establishment of the charter school;
2. the operation of the charter school;
3. charter school financial matters;
4. charter school personnel;
5. charter term, renewal and revocation; and
6. other provisions determined necessary by BESE.

E. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate.

F. Each contract entered into by BESE for the operation of a charter school shall contain provisions set forth in a standard contract template; however, BESE shall not be precluded from allowing for provisions that may be specific to an individual charter operator.

G. Any contracts entered into between a charter operator and a management organization shall:

1. set forth material terms including but not limited to: performance evaluation measures; methods of contract oversight and enforcement by the charter school board; compensation structure and all fees to be paid to the management organization; and conditions for contract renewal and termination;

2. contain provisions relative to the submission of documents, including but not limited to student records and financial information, upon request and in a timely manner. The contract shall specify that any documents not provided by a management organization to the charter operator must be reported by the charter operator to the department. If such documents are financial documents, the department shall notify BESE and the Office of the Louisiana Legislative Auditor. Failure to comply with requests for documents may render the management organization ineligible to contract with any BESE-authorized charter school as a management organization for up to five years.

H. Contracts between charter operators and management organizations may be reviewed by the department to ensure compliance with the provisions of Subsection D of this Section. Any contracts entered into between charter operators for the provision of services shall require an assurance statement signed by the presidents of the charter operators' board of directors to be submitted to the department. The assurance statement shall indicate that both parties have complied with the provisions of Subsection D of this Section.

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 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), LR 38:3118 (December 2012), LR 39:3065 (November 2013), amended LR 44:

Chapter 9. Opening of Charter School

§901. Timeline for Opening of BESE-Authorized Charter Schools

A. A BESE-authorized charter school shall begin operation by not later than 24 months after the final approval of the charter at a BESE meeting, or upon notification to BESE if opening additional approved charter schools pursuant to §519 of this bulletin, unless such charter school is engaged in desegregation compliance issues and, therefore, must begin operation by not later than 36 months. However, upon request, BESE may extend the time period within which any charter school must begin operation.

B. If a charter school fails to begin operation within the time periods set forth in §901.A, the charter for that school shall be automatically revoked although a new charter may be proposed in a subsequent application cycle.

C. A BESE-authorized charter school shall not begin operation sooner than eight months after approval of the charter school has been granted, unless BESE or the state superintendent agrees to a lesser time period.

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 37:870 (March 2011), LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 39:1433 (June 2013), LR 44:

Chapter 11. Ongoing Review of Charter Schools

§1101. Evaluation for BESE-Authorized Charter Schools

A. ...

B. The performance of type 2, type 4, and type 5 charter schools will be reviewed and/or evaluated annually in the following categories:

1. academic performance;
2. financial performance; and
3. organizational performance.

C. BESE shall approve a charter school performance compact that will articulate the specific criteria the Department of Education will use to annually evaluate the academic, financial, and organizational performance of BESE-authorized charter schools. As necessary, the Department of Education may revise the charter school performance compact, subject to BESE approval of all material changes. All criteria used in the charter school performance compact shall correspond to one of the categories listed above.

D. In measuring the organizational and financial performance of schools as part of the charter school performance compact, charter schools will be given one of the following ratings:

1. meets all expectations;
2. meets most expectations;
3. does not meet expectations.

E. The charter school performance compact may include other supporting evidence to be included in evaluating school performance.

F. 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.

1. Each charter school will be subject to regular site visits, monitoring, and contract, school policies, and data review on a schedule established by the Department of Education.

2. For a charter school with a renewal term of six or more years, the department will conduct an in-depth review and evaluation of the charter school, equivalent to a renewal review, at least once every five years to measure the charter school's performance as measured by the charter school performance compact. The department shall present such review and evaluation to BESE at a regular meeting and provide an opportunity for BESE to take appropriate action or impose meaningful consequences, if necessary, as provided for in this bulletin.

G. Academic Performance

1. Academic performance is the primary measure of school quality. BESE shall use the state's assessment and accountability programs as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor contract extensions and renewal decisions on a school's achievement of the student performance standards.

G.2. - H.3. ...

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.

H.4. - H.7. ...

I. Organizational Performance

1. BESE shall evaluate a charter school's organizational performance based on the Department of Education's oversight and monitoring of the charter school's compliance with and performance of statutory, regulatory, reporting, and contractual obligations, including R.S. 17:3972, which provides that the best interests of at-risk pupils shall be the overriding consideration in implementing the provisions of charter law.

2. BESE's organizational performance evaluation of each charter school shall be based on, but not limited to data and information in the following areas: special education and ELL program; student enrollment; student discipline; health and safety; governance; and facilities

3. The charter school performance compact shall articulate the specific criteria the Department of Education will use to evaluate organizational performance.

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 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR 39:3065 (November 2013), amended LR 40:1322 (July 2014), LR 44:

§1103. Alternate Extension and Renewal Standards for Certain BESE-Authorized Charter Schools

A. BESE may approve alternate extension and renewal standards for a charter school serving a unique student population or populations, or for a charter school that is not included in the Louisiana School and District Accountability System provided that:

1. the department determines that the school primarily serves a special or non-traditional student population or populations and mission, or the school is not included in the Louisiana School and District Accountability System;

2. the alternate extension and renewal standards are set forth in a framework approved by BESE; and

3. the alternate extension and renewal standards include specific academic performance criteria.

B. The department shall develop the alternate extension and renewal standards framework and shall engage with charter schools requesting use of such framework to determine the specific criteria to be included in the framework to be proposed for approval by BESE.

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 34:1366 (July 2008), amended LR 40:1322 (July 2014), LR 44:

§1105. Intervention Process for BESE-Authorized Charter Schools

A. The charter school performance compact may include an intervention process that articulates the steps the Department of Education may take should a school fall out of compliance with requirements outlined in the charter

school performance compact, law, or BESE policy. The stages of the intervention process shall include, at a minimum:

1. ...

2. notice of concern. If the Department of Education receives a verified complaint or if regular oversight generates significant concerns or questions, a school will receive a notice of concern. The notice of concern will contain specific actions and due dates required to remedy the concern. Upon remedying the concern the school will return to good standing. One or more notices of concern may lead to increased oversight by the Department of Education;

3. notice of breach. For significant, intentional, or repeated non-compliance with requirements outlined in the charter school performance compact, law, or BESE policy, or if a school fails to correct a notice of concern, the school will be issued a notice of breach that will contain specific actions and due dates required to remedy the breach. The Department of Education will monitor the implementation of the steps required to cure the breach. Once a school has fulfilled the notice of breach requirements, the school will return to good standing. One or more notices of breach may lead to increased oversight by the Department of Education;

4. revocation review. Upon failure to meet the requirements specified in the notice of breach, in instances of ongoing and significant concerns, or when the safety, health, or welfare of students is threatened, the department may initiate a revocation review. The review may include additional visits to the school or an in-depth audit to assess financial and/or organizational health. Findings from the revocation review will determine whether the Department of Education shall commence revocation proceedings or whether the school will be granted a new or revised notice of breach.

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 39:1435 (June 2013), amended LR 44:

Chapter 13. Charter Term

§1303. Extension Review for BESE-Authorized Charter Schools

A. ...

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Each charter school shall be reviewed based on academic, financial, and organizational performance data collected by the Department of Education as provided for in the charter school performance compact in order to provide relevant information to BESE in making an extension determination.

2. For the 2018 and beyond extension processes, in order to be eligible for extension:

a. a turnaround school, qualified to receive a letter grade of "T" per Bulletin 111, §1105, school has

(i.) earned a letter grade of "D" or higher based on performance data from the school's third year of operation; or

(ii.) earned a progress index equivalent to a letter grade of "A" based on performance data from the school's third year of operation.

b. a non-turnaround school shall have earned a letter grade of “D” or higher based on performance data from the school’s third year of operation;

c. a school approved by BESE to be evaluated using an alternate framework pursuant to §1103 of this bulletin shall have met the standards for extension provided for in such approved framework.

3. For the 2017 extension process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for extension based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for extension purposes.

4. The state superintendent shall recommend that BESE extend the charter for any charter school meeting the extension eligibility criteria above, unless the charter school has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact, in which case the state superintendent may recommend that BESE allow the charter to expire at the conclusion of the school’s fourth year of operation.

5. If a charter school has not earned a letter grade in its third year of operation, or if the charter school fails to meet any of the standards set forth in Paragraph B.2 of this Section, or if the charter school has one or more outstanding issues or deficiencies related to organizational or financial performance, BESE may, at the superintendent’s recommendation, grant the school a one-year probationary extension that may include conditions or other required actions.

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 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:1264 (July 2015), LR 44:

Chapter 15. Charter Renewal

§1501. Renewal of Charter

A. ...

B. No charter shall be renewed unless the charter 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. For BESE-authorized charter schools, such improvement shall be evaluated by the department using appropriate data and the standards for renewal provided for in this chapter.

C. A charter may be renewed for additional periods of not less than three nor more than 10 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 37:871 (March 2011), LR 37:2388 (August 2011), LR

38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012) LR 44:

§1502. BESE Processes for Charter Renewal

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), amended LR 37:871 (March 2011), LR 38:3119 (December 2012), repealed LR 44:

§1503. BESE Processes for Charter Renewal

(Formerly §§1502 and 1503)

A. For each BESE-authorized charter school in the final year of operation under its current charter term, the state superintendent shall make a recommendation to BESE as to whether the charter should be renewed, and if so, the length of the proposed renewal term.

B. A BESE-authorized charter school may be renewed at the discretion of BESE if all requirements set forth in law and policy for the renewal of a charter have been met.

C. The process for renewing a school charter shall be based on a thorough review of the charter school's academic, financial, and organizational performance as provided for in the charter school performance compact.

D. BESE will rely on data from the state’s assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school’s student performance data in all renewal decisions.

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 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:

§1505. Eligibility for Renewal for BESE-Authorized Charter Schools (Formerly §1503.B)

A. For initial renewals during the 2018 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

1. the charter school is a school approved by BESE to be evaluated using alternate renewal standards pursuant to §1103 of this bulletin and has met such alternate standards; or

2. the school is a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111, §1105 and has earned a progress index equivalent to a letter grade of “A.”

B. For subsequent renewals during the 2018 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of “D” or “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

1. the charter school is a school approved by BESE to be evaluated using alternate renewal standards pursuant to §1103 of this bulletin and has met such alternate standards; or

2. the charter school has a current letter grade of “D,” or an equivalent SPS and:

a. has received a letter grade of “C” or an equivalent SPS for more than half of the letter grades received during the charter’s current term and the final letter grade received in charter school’s prior term; or

b. has earned a progress index equivalent to a letter grade of “A” in the most recent year and for more than half of the progress indices received during the charter’s current term and the final progress index received during the charter school’s prior term.

i. For years in which the school does not earn a progress index, a progress index may be calculated using the available data for that year.

C. If, in the state superintendent’s judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, upon the state superintendent’s recommendation, BESE may renew the charter. Such renewal may include conditions to be incorporated in the charter school contract that would require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

D. For the 2017 renewal process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for renewal based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for renewal purposes.

E. The state superintendent of education may recommend a corrective action plan as a condition for renewal for any charter school that is eligible for renewal, but fails to fully meet any performance expectations of the charter school performance compact. The board may make the execution of the renewal charter contract contingent upon the completion of all or some of the actions required by the corrective action plan. The board may also direct the department to include all or some of the actions required by the corrective action plan to be incorporated into the charter contract so that failure to complete corrective actions may serve as grounds for revocation.

F. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

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 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), amended LR 44:

§1507. Renewal Term Length for BESE-Authorized Charter Schools (Formerly §1503.C)

A. For each charter school meeting the eligibility criteria for renewal in §1503 of this bulletin, the state superintendent shall recommend that BESE renew of the charter for a specified number of years as provided for in Subsection C of this section, unless the charter school has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact, in which case the state superintendent may recommend that BESE allow the charter to expire at the conclusion of the school’s current charter term.

B. For those charter schools the state superintendent recommends for renewal, the state superintendent shall recommend a renewal term length as follows:

1. the state superintendent shall recommend a minimum renewal term length based on the charter school’s current letter grade; and

2. the state superintendent may recommend a term of years longer than the minimum renewal term length through the optional addition of one or more years to the minimum renewal term length in recognition of the charter school’s financial and organizational performance as provided for in the charter school performance compact over the term of the school’s current charter.

C. The state superintendent shall recommend renewal term lengths in accordance with the table below.

Current Letter Grade	Minimum Term Length	Potential Additional Years (Based on Organizational and Financial Performance Over Current Term)	
A	6 Years	“Does Not Meet Expectations” in any year	No additional years
		“Meets All” and/or “Meets Most” Expectations all years	≤ 2 Years
		“Meets All Expectations” all years	≤ 4 Years
B	5 Years	“Does Not Meet Expectations” in any year	No additional years
		“Meets All” and/or “Meets Most” Expectations all years	≤ 1 Year
		“Meets All Expectations” all years	≤ 2 Years
C	4 Years	No additional years	
D, F or no letter grade	3 Years	No additional years	

D. Notwithstanding the above:

1. the state superintendent may recommend a renewal term that is up to two years shorter than the minimum term length specified above, which shall be no shorter than three years in any case, for a charter school:

a. where fewer than 50 percent of the school’s enrolled grades are testable under state accountability; or

b. that has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact.

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 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:

§1509. Automatic Renewal of BESE-Authorized Charter Schools (Formerly §1503.G)

A. 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 preceding school 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.

B. A BESE-authorized charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in this Section, as appropriate:

1. has received a letter grade of "A" or "B" or an equivalent SPS for the previous three years;
2. has demonstrated growth in student academic achievement as measured by a current progress index equivalent to a letter grade of "A";
3. has received a "meets all expectations" or "meets most expectations" designation for organizational performance according to the charter school performance compact for the three previous years;
4. has received a "meets all expectations" or "meets most expectations" designation for financial performance according to the charter school performance compact for the three previous years; and
5. has no outstanding notices of concern or breach.

C. The state superintendent shall determine the automatic renewal term length according to the terms specified in Subsection C 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 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015) LR 44:

Chapter 16. School Closure

§1601. Closure of BESE-Authorized Charter Schools

A. In the event a BESE-authorized charter school closes permanently for any reason, the school shall adhere to the school closure procedures developed by the Department of Education.

B. The charter board shall have direct responsibility for carrying out the dissolution of the school and disposition of assets in accordance with applicable law and policy.

C. Once the school has ceased operations or the charter board or BESE has taken board action to close the school, whichever occurs first, the department shall have authority to supervise, oversee, or direct the dissolution of the charter school and the disposition of assets of the charter school, and the charter school shall:

1. make no disposition of equipment and cash on hand attributable to state public funding without written permission from the department;
2. transfer or dispose of assets in accordance with §2509 of this bulletin;
3. designate a representative who shall retain responsibility for the security of and access to all charter school records;
4. provide the means and capability to access charter school records, including student records, to the department, as designated in writing, and as permitted by law;
5. fully cooperate with the department, who shall have unrestricted and equal access to charter school records, including student records, as permitted by law, during the period prior to the closure of the charter school;
6. secure all charter school records, including student records, in the possession of the charter school and shall grant to the department access to records requested by the department, as permitted by law.

a. Upon taking possession of such records, the department shall thereafter fulfill any and all statutory and contractual duties concerning the charter school records, including the student records which are within the department's possession.

b. The charter school shall take all reasonable steps necessary to collect and assemble in an orderly manner the educational records of each student who is or has been enrolled in the school so that those records may be transmitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and RS 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:3067 (November 2013) LR 43.

Chapter 19. Amendments to BESE-Authorized Charters

§1901. Charter Amendments

A. Any modification to the provisions of a school's charter contract or proposed charter prior to the execution of a charter contract shall constitute an amendment to the charter. An amendment may be material or non-material, as defined in this bulletin.

B. - C. ...

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) LR 44:

§1903. Material Amendments for BESE-Authorized Charter Schools

A. A material amendment to a charter contract or proposed charter prior to the execution of the charter contract is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. creation of or change in corporate partnership, assignment of charter contract, or addition of or changes in management organization;
2. the addition of new grade levels;
3. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter, as applicable;

4. changes in admission requirements other than the removal of one or more admission requirements, if applicable;

5. changes in any option expressed in the charter contract exhibit with respect to collective bargaining;

6. changes in LEA status for type 4 charter schools in Orleans Parish pursuant to §2303 of this bulletin;

7. changes in school location for Type 2 charter schools; and

8. any changes to the charter contract not specifically identified as non-material amendments that the state superintendent determines to be material changes.

B. - C. ...

D. The LDE shall make recommendations to BESE on each material amendment request it receives from a charter operator that requires BESE approval.

E. BESE shall delegate authority to the department to approve a material amendment regarding the addition of new grade levels or changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter, for any charter school meeting the following conditions, as determined by the department:

1. The charter school has:

a. a current letter grade of "C" or higher or an equivalent SPS, or

b. a current letter grade of "D" or higher or an equivalent SPS, and a progress index equivalent to a letter grade of "A"; and

2. The charter school's most recent designations for financial and organizational performance under the charter school performance compact are "Meets Most Expectations" or "Meets All Expectations."

F. Should the state superintendent deny the charter operator's request pursuant to Subsection E of this section, the charter operator may subsequently seek approval from BESE.

G. When time is of the essence and circumstances require immediate consideration of a material amendment request, a committee composed of the state superintendent, BESE president, and School Innovation and Turnaround Committee shall have interim authority to consider material amendment requests. All approvals or denials of material amendment requests pursuant to this Subsection shall be ratified by BESE at the following BESE meeting.

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 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:3067 (November 2013), LR 40:1324 (July 2014), LR 43:635 (April 2017), LR 44:

§1905. Non-Material Amendments for BESE-Authorized Charter Schools

A. ...

1. changes to the name, mailing address, telephone, and/or facsimile number of the charter school;

2. the removal of one or more admission requirements;

3. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site; and

4. changes in any option expressed in the charter contract exhibits with respect to the Teachers' Retirement System of Louisiana.

B. The charter operator shall provide the Department of Education with written notification of a non-material amendment to its charter within five days of board approval in compliance with all requirements set forth by the Department of Education. A non-material amendment will be effective following notification to the department.

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 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 39:3068 (November 2013), amended LR 40:1324 (July 2014), LR 44:

Chapter 21. Charter School Governance **§2101. Board of Director Composition**

A. - C. ...

D. Board of Director Composition for BESE-Authorized Charter Schools

1. The board of directors of each charter operator shall consist of no fewer than seven members. Should a board have fewer than seven members due to the resignation or other loss of one or more board members, the board shall have 90 calendar days after such loss to appoint one or more replacements.

2. - 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), LR 37:1377 (May 2011) LR 44:

§2107. Prohibitions

A. - H. ...

I. A charter school shall not discriminate among potential employees, or pupils in violation of any state or federal law. A charter school shall recruit, employ, and train teachers, administrators, and other employees without regard to race, color, religion, sex, or national origin. Race, color, religion, sex, and national origin shall not constitute bona fide occupational qualifications. Proficiency in a foreign language may constitute a bona fide occupational qualification for a teacher who spends more than half of his daily instruction time providing instruction in or teaching in a foreign language.

J. A charter school shall not hire a person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or a school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the district attorney. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

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 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 44:

Chapter 23. Charter School Funding

§2301. State Funding

A. - B. ...

C. For the purposes of funding, and unless otherwise permitted by law, each type 1, type 3, and type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. Pursuant to R.S. 17:10.1, for a school system from which one or more schools have been transferred to the recovery school district pursuant to R.S. 17:10.7, the local school board shall adopt a policy that establishes a process to determine the district-level funding allocation based upon student characteristics or needs, as determined by the local school board, to distribute the total amount of minimum foundation program formula funds allocated to the local school board and to Type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the geographic boundaries of the local school system.

F. - G.2. ...

3. The department may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 3B charter school for administrative costs incurred by the department for providing financial oversight and monitoring of a type 3B charter school acting as its own LEA.

4. The department may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 1, 3, 3B, or 4 charter school considered its own LEA pursuant to §2303 of this Bulletin for administrative costs incurred by the department for providing financial oversight and monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 42:1019 (July 2016), LR 43:308 (February 2017), LR 43:636 (April 2017), LR 44:

§2303. Local Education Agency (LEA) Status and Federal Funding

A. ...

B. Type 1, 3, 3B, and 4 Charter School LEAs

1. - 2.a.vii. ...

b. For type 1 and 3 charter schools in Orleans Parish, the local superintendent shall implement a process to identify those schools requesting to be considered their own LEAs. LEA status shall commence on July 1 following receipt by the state superintendent of written notification from the local superintendent no later than the preceding April 1. Such written notification shall include:

B.2.b.i. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:309 (February 2017), LR 43:636 (April 2017) LR 44:

Chapter 25. Charter School Fiscal Responsibilities

§2501. Qualified and Competent Business Professional

A. - C. ...

D. All qualified and competent business professionals must acquire Certified Louisiana School Business Administrator (CLSBA) certification or Certified Louisiana Charter School Business Administrator (CLCSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the first date of hire as a qualified and competent business professional by any BESE-authorized charter school and maintain certification while employed as a qualified and competent business professional. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a qualified and competent business professional.

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 34:1372 (July 2008), amended LR 38:3120 (December 2012), LR 39:1437 (June 2013), LR 39:3068 (November 2013), LR 44:

§2509. Assets of BESE-Authorized Charter Schools

A. - B. ...

C. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be audited annually and maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

D. If a charter operator's charter is revoked, non-renewed, surrendered or the school otherwise ceases to operate, or the charter school fails to open and serve students, all assets and cash on hand shall be transferred or disposed of as authorized or directed by the department pursuant to §1601 of this bulletin.

1. Assets or cash on hand attributable to state public funds shall be transferred to BESE or disposed of, as authorized or directed by the department.

2. All assets and cash on hand attributable to federal funding shall be returned to the appropriate division within the U.S. Department of Education or the Louisiana Department of Education, or to any other federal funding source, except as specifically permitted by BESE pursuant to a written agreement.

3. All assets and cash on hand attributable to 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. If the records fail to clearly establish whether a particular asset was purchased with public funds or private funds, ownership of the asset shall revert to BESE.

E. If the charter school operates a charter school that results from the conversion of a pre-existing traditional public school, the charter operator shall manage any school fund maintained by the pre-existing school pursuant to R.S. 17:414.3 and any amounts therein prior to the charter

school's conversion to a charter school in accordance with the provisions of R.S. 17:414.3 and as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 39:3252 (December 2013), LR 44:

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend BESE-Authorized Charter Schools

A. - A.5. ...

6. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. - C. ...

D. Each Type 4 or 5 elementary and middle charter school, may request from and be granted by BESE 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 BESE. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

E. Notwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally-declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

1. student's name;
2. name of parent or legal custodian;
3. current address of parent or legal custodian;
4. statement indicating that the student is displaced from another school due to a federally-declared disaster; and
5. name of the school in which the student was previously enrolled prior to the federally-declared disaster.

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 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 43:309 (February 2017), LR 44:

§2703. Enrollment Capacity for BESE-Authorized Charter Schools

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter contract unless approved to do so pursuant to §1902 of this bulletin.

B. ...

C. For type 5 charter schools participating in a unified enrollment system administered by the recovery school district, the charter contract may permit the maximum number of enrolled students per grade to be determined each year in accordance with procedures and timelines established by the RSD.

D. In the event of a federally-declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to BESE at its next regularly scheduled meeting outlining each charter school granted an increase in its enrollment capacity pursuant to this Paragraph. Students enrolled pursuant to this Paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 43:310 (February 2017), LR 44:

§2705. Admission Requirements for BESE-Authorized Charter Schools

A. ...

B. Admission requirements imposed by a school must be set forth in the charter school's approved charter contract and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1942(B). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or proficiency in a foreign language for schools with a language immersion mission. Any charter school which began operation prior to July 1, 2012, and which incorporated achievement of a certain academic record as part of its admissions requirements may continue to utilize such admission requirements. No charter school beginning operation on or after July 1, 2012 may incorporate the achievement of a certain academic record as part of its admission requirements.

C. Admission requirements must be approved by BESE, either through the approval of the initial charter proposal, or through material amendment to an existing charter contract, as provided for in §1903 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 34:1374 (July 2008), amended LR 37:875 (March 2011), LR 38:3120 (December 2012), LR 44:

§2709. Enrollment of Students, Lottery, and Waitlist in BESE-Authorized Schools

A. - B. ...

C. A charter school shall admit no student during the school's designated application period, but shall wait until the period has ended.

D. - I. ...

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 or R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended throughout the year, manage student transfers, and student expulsions.

K. Upon request of a charter operator, the department may approve an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

L. All BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools, and shall continue to participate in the unified enrollment system and expulsion process upon the management of its transfer to the Orleans Parish School Board pursuant to 17:10.7.1. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

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 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017), LR 44:

§2711. Enrollment Preferences for BESE-Authorized Charter Schools

A. Students seeking enrollment to a charter school that was created through the conversion, merger, or turnaround of a pre-existing school who were enrolled at the pre-existing school shall be given preference over all other applicants and the applications procedure shall be

established in a fashion that provides ample opportunity for such students to exercise the right to preferential admission.

B. Students previously enrolled in the charter school shall be given preference over all other applicants, and shall maintain enrollment or be automatically admitted following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of this paragraph. Requests by charter schools to give preference for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this preference for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the preference shall be subject to the approval of the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the department or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for at-risk applicants to its kindergarten classes.

C. Students seeking enrollment to a type 5 charter school that is assigned a facility formerly occupied by a pre-existing public school may be given preference and may be automatically admitted following the charter school's application period, if authorized by the department.

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, LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:1022 (April 2013), LR 44:

Chapter 28. Transportation
§2801. Transportation Requirements for BESE-Authorized Charter Schools

A. - A.2. ...

B. Free daily transportation shall include, at a minimum:

1. whatever transportation is necessary to implement any individualized education plan (IEP) for a child with an identified exceptionality;

2. transportation by a vehicle approved for student transportation in accordance with BESE *Bulletin 119—Louisiana School Transportation Specifications and Procedures* or public transportation payments and/or reimbursements;

3. bus stops or pick-up points no further than one mile from the place of residency of each child residing within the parish, unless the school is located in a large rural parish, in which case the state superintendent may grant a waiver for this requirement; and

4. procedures to ensure compliance with R.S. 14:93.2.1 for children under the age of 10.

C. Charter operators shall submit school transportation plans to the department to ensure compliance with applicable laws and policies. The state superintendent shall set forth the process for transportation plan submission.

D. Charter operators having BESE authorized charter schools in operation during the 2015-2016 school year shall offer transportation to all eligible students no later than the beginning of the 2018-2019 school year. Charter operators having BESE authorized charter schools that begin operation in the 2016-2017 school year shall offer transportation upon opening.

E. The department shall develop a waiver process to exempt from this requirement any type 2 charter schools having a unique mission to serve students with exceptionalities, virtual schools, or other schools upon which this requirement would create a substantial financial burden. Such process shall be set forth the state superintendent, who shall update the board on any waivers granted.

F. No later than the beginning of the 2016-2017 school year, each type 5 charter school located in Orleans Parish shall provide free transportation services for all students enrolled in the charter school who reside within Orleans Parish and more than 1 mile from the charter school's location, which shall include, at a minimum:

1. whatever transportation is necessary to implement any individualized education plan (IEP) for a child with an identified exceptionality, without regard to how far the child resides from the charter school;

2. free transportation by a vehicle approved for student transportation in accordance with BESE *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, for students enrolled in grade 6 or below who reside more than 1 mile from the charter school; and

3. free transportation, free public transportation payments and/or reimbursements for all other students not included in Paragraphs 1 and 2 of this Subsection who reside more than 1 mile from the school.

G. Each charter school operator shall adopt policies and procedures or shall make provision in its bus transportation service agreement to do all of the following:

1. prohibit a school bus operator from loading or unloading students at school while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school as determined by the school governing authority. The requirements of this Paragraph shall not apply if the shoulder of a municipal road is the only available alternative and the municipality has not made the shoulder available by designating that area for loading and unloading students during designated school zone hours;

2. prohibit a school bus operator from loading or unloading students at or near their homes while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder unless the governing authority determines that loading or unloading on a shoulder is less safe for the student. However, if there is no shoulder or if the shoulder is determined to be less safe, a school bus operator may load and unload a student while the bus is in a lane of traffic but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road;

3. prohibit a school bus operator from loading or unloading a student in a location on a divided highway such that a student, in order to walk between the bus and his home

or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, R.S. 17:3981, and 17:3996(B)(37).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015), amended LR 42:551 (April 2016), LR 44:

§2805. Parent Volunteers at BESE-Authorized Charter Schools

A. The charter school shall not require, nor condition the enrollment, continued enrollment, or receipt of grades on the commitment of the student's parents to provide any number of volunteer hours or on otherwise donating volunteer hours to the charter school. Any request for parents to commit to volunteer hours shall be accompanied by a statement that such hours are voluntary and not required.

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 44:

Chapter 29. Charter School Staff

§2901. Employment of Staff at BESE-Authorized Charter Schools

A. - B. ...

C. The charter operator shall have exclusive authority over all employment decisions at the charter school, unless delegated to a for-profit management organization, as authorized in law and which must be specifically provided for in a service provider agreement. Employment practices shall be in accordance with all applicable law, including, but not limited to, the Louisiana Code of Governmental Ethics.

D. - F. ...

G. The charter operator shall not employ members of the immediate family of a charter board member or the chief executive officer or leader of the non-profit organization's school, or schools, in the case of a non-profit organization that operates more than one charter school, unless:

1. the family member was employed for one year prior to their family member becoming a charter board member or chief executive officer or leader of the charter school's non-profit organization; or

2. the family member is employed as a school teacher and certified to teach or is temporarily authorized to teach while pursuing certification and annual disclosure of such employee is made as provided for in the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 38:3120 (December 2012), LR 44:

§2905. Criminal History Review

A. Each charter operator shall request in writing that the Louisiana Bureau of Criminal Identification (LBCI) and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. - 3. ...

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1 shall be hired by a public elementary or secondary school as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

B.1. - D.1. ...

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 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:3068 (November 2013), LR 44:

§2911. Evaluation and Assessment for BESE- Authorized Charter Schools

A. Each charter operator shall annually evaluate every teacher and administrator employed at its charter schools using the value-added assessment model and measures of student growth as determined BESE pursuant to R.S. 17:3902(B)(5) and comply with all other such requirements specified in R.S. 17: 3997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 39:3068 (November 2013), LR 44:

Chapter 31. Notification Requirements for BESE- Authorized Charter Schools

§3101. Required Notifications for BESE-Authorized Charter Schools

A. - G. ...

1. For a type 5 charter school, the charter operator shall submit a formal plan for the continued operation of the school to the state superintendent of education within 10 days of written notification of the contract's termination. If no plan is received or the plan received is deemed inadequate by the state superintendent of education, the recovery school district shall have interim authority to operate the school until the charter operator resubmits a plan deemed acceptable by the superintendent.

2. Failure of the board to notify the Department of Education about loss of the management organization within two business days may result in BESE rendering the charter operator or a majority of its board members ineligible to operate a charter school for up to five years.

H. The charter operator shall notify the Department of Education should the charter operator's chief executive officer or president of the charter school's governing board change. Such notification shall be made within two business days of the official board action taken on this matter.

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 34:1377 (July 2008), amended LR 37:876 (March 2011), LR 39:3068 (November 2013), LR 44:

Chapter 33. Compliant Procedures

§3301. Charter Operator Complaint Procedures for BESE-Authorized Charter Schools

A. - B. ...

C. The department may investigate a parent complaint it receives about a charter school authorized by BESE, and the charter operator shall provide information requested by the department to aid in such investigation.

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 34:1377 (July 2008), amended LR 44:

Chapter 35. Volunteer Requirements

§3501. Volunteer Programs

Repealed.

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 34:1377 (July 2008), repealed LR 44:

Chapter 37. Virtual Charter Schools

§3703. Curriculum in Virtual Charter School

A. The virtual charter school shall ensure that all course content is being used under an appropriate and valid license and shall defend, indemnify and hold harmless BESE, the department, and the students and parents for any claims of non-compliance.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012), amended LR 44:

Chapter 40. Charter School Autonomy

§4001. Applicability of State and Local Rules and Regulations

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all rules and regulations of BESE and those of any local school board that are applicable to public schools and to public school officers and employees except for the following rules and regulations otherwise applicable to public schools regarding:

1. building maintenance;
2. facility accessibility;
3. asbestos detection and abatement;
4. the sanitary code;
5. pesticide use and safety;
6. fire safety;
7. safe work environments;
8. the possession and safe use of weapons and hazardous materials;
9. adolescent health initiatives and school health centers;
10. hearing and vision screenings;
11. immunizations and health records;

12. communicable disease prevention;
13. drug use prevention;
14. eye safety and the use of protective goggles;
15. missing children identification procedures;
16. school and district accountability system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:

§4003. Applicability of State Laws

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

1. school entrance age, R.S. 17:222;
2. corporal punishment, R.S. 17:416.1(B), and suspension of students, R.S. 17:223;
3. expulsion of students, R.S. 17:224;
4. attendance reporting, R.S. 17:232;
5. admission of home study students, R.S. 17:236.2;
6. unauthorized use of electronic communication devices, R.S. 17:239;
7. smoking, R.S. 17:240;
8. open meetings, R.S. 42:11 et seq.;
9. public records, R.S. 44:1 et seq.;
10. teaching regarding the United States Constitution, R.S. 17:261;
11. teaching regarding the Federalist Papers and the Declaration of Independence, R.S. 17:268;
12. in-service training regarding suicide prevention, R.S. 17:437.1;
13. teaching regarding civics and free enterprise, R.S. 17:274.1;
14. teaching regarding sex, R.S. 17:281;
15. religious liberty of students, R.S. 17:2115 et seq.;
16. Pupil assessment, R.S. 17:24.4;
17. any school and district accountability system required by law of a public school of similar grade or type;
18. public bids for the erection, construction, alteration, improvement, or repair of a public facility or immovable property, Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950;
19. Code of Governmental Ethics, R.S. 42:1101 et seq., with the exception of R.S. 42:1119 as it applies to any person employed by a charter school prior to August 15, 2003;
20. electronic communication by an employee at a school to a student enrolled at that school, R.S. 17:81(Q);
21. teaching regarding the state's Safe Haven Law, R.S. 17:81(R);
22. inspection and operation of fire safety and prevention equipment, R.S. 17:81(S);
23. teaching regarding dating violence, R.S. 17:81(T);
24. reporting by a school bus operator employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to operating a vehicle, R.S. 17:491.3;

25. school master plans for supporting student behavior and discipline, R.S. 17:252;

26. data collection system, R.S. 17:3911;

27. reporting by a school employee employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to sexual morality affecting minors, R.S. 17:16, any of the crimes provided in R.S. 15:587.1, or any justified complaint of child abuse or neglect on file in the central registry pursuant to Article 615 of the Children's Code;

28. seclusion and physical restraint of students with exceptionalities, R.S. 17:416.21;

29. teaching regarding Internet and cell phone safety, R.S. 17:280;

30. instruction on the founding principles of the United States of America in American history and civics courses, R.S. 17:265;

31. procedures on bullying pursuant to R.S. 17:416.13;

32. school crisis management and response plans, R.S. 17:416.16;

33. instruction relative to cardiopulmonary resuscitation and the use of automatic external defibrillators, R.S. 17:81(X);

34. instruction and hotline number posting requirements relative to child assault awareness and prevention, R.S. 17:81(Y);

35. deferred compensation plans, R.S. 17:81(Z);

36. school bus loading and unloading provisions, R.S. 17:158(J);

37. student information, R.S. 17:3913 and 3914;

38. notification of homework assistance services, R.S. 17:182.1;

39. prohibits suspension or expulsion of students in grades prekindergarten through five, R.S. 17:416(J);

40. deaf child's bill of rights, R.S. 17:1960;

41. instruction in cursive writing, R.S. 17:266;

42. Louisiana Expectant and Parenting Students Act, R.S. 17:221.7;

43. instruction in litter prevention and awareness, R.S. 17:267;

44. administration of medication and exceptions thereto, R.S. 17:436.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:

§4005. Other Statutory Requirements

A. A charter school shall comply with state and federal laws and regulations otherwise applicable to public schools with respect to civil rights and individuals with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:

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.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, December 9, 2017, to Shan N. Davis,

Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
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 policy revisions will have no effect on costs or savings to the Department of Education (LDE). Proposed revisions apply only to those charter schools authorized by BESE (type 2, 4 and 5). There are no changes to the application and approval process for locally authorized charter schools. The proposed revisions incorporate changes related to the proposed new Charter School Performance Compact (CSPC), as well as technical edits to provide additional clarity. The proposed revisions include: eliminating outdated language that was temporary, has been superseded by new law or policy, or is no longer applicable for any other reason; ensuring consistent terminology throughout; updating performance standards for extension, renewal, expansion, and replication to align with the new CSPC; clarifying current processes, including Type 2 charter appeals, charter school closure, charter amendments, transportation plans, and parent volunteering; providing for an in-depth review of each charter school with a charter term of six or more years in order to comply with the requirements of the Charter Schools Program grant; and incorporating statutory language from La. R.S. 17:3996 relating to charter school requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is an indeterminable impact on charter school management organizations. As a result of changes in organizational and financial performance, charter schools may have to meet slightly higher standards in order to gain approval on renewals and expansions. Future impacts may vary, as benchmarks are specified in a document other than this bulletin, which may be implemented without revisions to the rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an indeterminable impact on competition as a result of the proposed changes. To the extent charter renewals or expansions are not approved, there could be a shift in student enrollment to other public or private schools.

Beth Scioneaux
Deputy Superintendent
1711#054

Greg V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.903)

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 to revise *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §903, Participation in LA Pathways. The proposed revisions update qualifications for the school readiness tax credit for eligible child care staff.

Title 28 EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§903. Participation in LA Pathways

A.1. - B.8.e.i. ...

C. Requirements for the Administrator Track for LA Pathways beginning January 1, 2018.

1. Director I

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and
a.ii. - b.i. ...

2. Director II

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and
a.ii. - b.i. ...

3. Director III

a. Training and education requirements:

i. ...
ii. early childhood ancillary certificate or approved early childhood diploma and administrator certificate;
iii. - D. 11.c.i. ...

E. Requirements for the Classroom Track for LA Pathways beginning January 1, 2018

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iii. ...
iv. related bachelor's degree with three college courses in early childhood or child development; or
v. classified as early learning center teacher I or above by LA Pathways as of December 31, 2017 and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...
ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. classified as early learning center teacher I or above by LA Pathways as of December 31, 2016 and demonstrated evidence of eligibility for the staff school readiness tax credit in 2017.

6. - 6.a.ii. ...

F. Requirements for the Classroom Track for LA Pathways beginning January 1, 2019

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iv. ...

v. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...

ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least two prior years beginning with 2017.

6. - 6.a.ii. ...

G. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Early Learning Center Director Levels

a. Directors who are classified as director I by LA Pathways are classified as meeting level I qualifications for purposes of this credit.

b. Directors who are classified as director II by LA Pathways are classified as meeting level II qualifications for purposes of this credit.

c. Directors who are classified as director III by LA Pathways are classified as meeting level III qualifications for purposes of this credit.

d. Directors who are classified as director IV by LA Pathways are classified as meeting level IV qualifications for purposes of this credit.

3. Early Learning Center Staff Levels

a. Staff members who are classified as early learning center teacher I by LA Pathways are classified as meeting level I requirements for purposes of this credit.

b. Staff members who are classified as early learning center teacher II by LA Pathways are classified as meeting level II requirements for purposes of this credit.

c. Staff members who are classified as early learning center teacher III by LA Pathways are classified as meeting level III requirements for purposes of this credit.

d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA Pathways are classified as meeting level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 42:46 (January 2016), LR 44:

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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., December 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs to the Department of Education (LDE) to implement the proposed revisions. However, there will be a cost to the state in the form of a reduction in the state general fund from state income tax collections due to the increase in the number of recipients eligible for the tax credit.

School Readiness Tax Credits (SRTC) were authorized in 2007 to promote kindergarten readiness in eligible early childhood learning centers and are based on the quality rating of the facility which the child attends. The credits, which are refundable or may be carried forward, are awarded to individual taxpayers, child care providers, businesses which support child care expenses and resource and referral agencies, and eligible directors and child care staff. The law establishes the amount of the credit based on the Quality Rating of child care facilities, denoted by a rating of one to five stars. Individual taxpayers (families) earn credits of 50% to 200% of the state child care tax credit based on their income levels. Provider credits are based on the average monthly census of children in the CCAP program and/or who are in foster care or in the custody of the Department of Children and Family Services; credit amounts range from \$750 to \$1,500 per CCAP child. Business credits range from 5% to 20% of eligible expenses with a one-to-one credit for donations to resource and referral agencies, (not to exceed \$5,000). Finally, child care directors and teachers are eligible based on educational credentials and experience; credit amounts range from \$1,500 to \$3,000 (adjusted annually by the Consumer Price Index).

The revisions provide relative to requirements for the Administrator and Classroom Tracks for LA Pathways beginning January 1, 2018. Specifically, the revisions provide for an Early Childhood Ancillary Certificate to count towards the training and education requirements for individuals on the Administrative Track for LA Pathways. Also, individuals classified as Early Learning Center Teacher 1 or above by LA Pathways as of December 31, 2017 and who have demonstrated

evidence of eligibility for the Staff School Readiness Tax Credit for at least one prior year beginning in 2017 will be deemed to have met training and education requirements for the Classroom Track for LA Pathways.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a reduction in the state general fund from state income tax collections due to the proposed revisions. The changes in staff qualifications may initially result in an increase in the number of individuals eligible for the credit. However, continuation of high turnover rates in child care center staff will likely result in little or no net increase in credits awarded for calendar year 2018 (FY19). Changes in qualifications for some teachers, which are effective in calendar years 2019 and 2020, may serve to stabilize turnover by making more teachers eligible for the credit (in FY20 and FY21). Based on analysis of the professional registry and workforce trends, the LDE estimates the anticipated fiscal impact to be zero in FY 19 and less than \$5 M annually for FY 20 and FY 21. Ultimately, privacy laws prevent the DOR from sharing certain taxpayer information, so actual impacts cannot be quantified. Furthermore, factors other than the SRTC credit influence provider, business, and individuals' behavior, which can't be projected, but which will affect their eligibility, credit amounts, and application for the credit.

Historically, School Readiness Tax Credits have been used as both a Maintenance of Effort (MOE) and State Match for the purpose of drawing down federal Child Care Development Funds (CCDF) of approximately \$80 M annually. While significant reductions in the award amount of SRTC could negatively impact the state's ability to match these federal funds, an increase in the credits awarded would have no impact on federal funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a benefit for those individuals meeting the training and education requirements for the Administrator and Classroom tracks for LA Pathways.

There are no mandatory costs as a result of the proposed revisions but may encourage child care programs to improve adult-child interactions and instruction in their classrooms to earn the economic benefits of tax credits. Economic benefits for programs, directors, businesses, and families will only be realized if programs increase classroom quality as recognized under the Unified Quality Rating System. Finally, research demonstrates that children who participate in high quality early childhood programs are more likely to graduate high school and have post-secondary success, thus increasing their overall lifetime earnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDE hopes that the proposed policy revisions will encourage all publicly-funded early learning centers that serve children from birth to age five to improve classroom interactions and instruction, thus ensuring those children receive higher quality care and education that prepares them for kindergarten. There should not be any additional effect on competition as the unified rating system is already in effect. More significantly, these policy revisions are intended to have a positive impact on the child-care workforce, which is a low wage workforce. Specifically, they should help increase retention of highly-qualified child care teachers by encouraging their continued employment within the sector. This is anticipated to decrease the current annual turnover rates for lead-teachers within child care, which currently average around 40% a year. This will likely result in more stability and higher quality services for children, while reducing the turnover costs for child-care businesses. Costs of turnover include but are not

limited to purchasing new criminal background checks, conducting interviews and references, and providing orientation and training.

Beth Scioneaux
Deputy Superintendent
1711#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.333 and 2318)

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 to revise *Bulletin 741—Louisiana Handbook for School Administrators*: §333, Instructional Time; and §2318, The TOPS University Diploma. The proposed revisions pertain to waivers of required instructional minutes for schools that temporarily shared facilities, each holding school for part of the school day, due to the impact of a declared natural disaster or emergency. The proposed revisions also ensure that, for spring 2018, the decision to include English I, English II, algebra I, and geometry LEAP 2025 assessment scores as a percentage of student final grades shall be determined by local education agencies (LEAs) and shall be outlined in the pupil progression plan.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§333. Instructional Time

A. Each LEA shall adopt a calendar that includes a school year that is in accordance with applicable state regulations and includes a minimum of 63,720 minutes of instructional time.

1. Effective for the 2016-2017 school year and thereafter, the provisions of Subsection A of this Section shall not apply to any city, parish, or other public school that cannot meet minimum instructional time requirements because the school temporarily shared facilities with another school due to damages caused by a natural disaster or emergency that was declared by the governor pursuant to *Revised Statute 29:724*, certified by the state superintendent of education, and approved by BESE.

a. BESE may require that the school provide a minimum number of daily instructional minutes that is less than the requirements set forth in Subsection A of this Section and provide other requirements deemed necessary to support student learning.

b. The governing authority of any such school shall submit to the state superintendent for certification, no later than 60 days prior to the end of the school year or within 30 days of the gubernatorial declaration, whichever occurs first, and using a template provided by the LDE, documented information explaining why the school is not able to meet the required instructional minutes, any efforts made by the school toward meeting the requirements, and a revised school calendar for the affected school year. The state

superintendent shall certify any such requests received, present the request to the board, and provide a recommendation as to whether the request should be approved, approved with conditions, or denied.

2. Instructional time shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies. Instructional time does not include such things as:

- a. recess;
- b. lunch;
- c. change of class time; and
- d. parent-teacher conferences.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013), LR 44:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - A.2. ...

B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP Alternate Assessment, Level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2.

1.a. - 2.b. ...

3. Students enrolled in a course for which there is an EOC or LEAP 2025 test must take the EOC or LEAP 2025 test.

a. The EOC or LEAP 2025 test score shall count a percentage of the student's final grade for the course. During the transition to new tests, the requirement to count a LEAP 2025 test score as a percentage of the student's final grade will be waived for high school state assessments as follows:

i. English I, English II, algebra I, and geometry scores from the fall 2017 administration; the decision to include scores from these assessments in final grades in spring 2018 shall be a district decision that must be outlined in the pupil progression plan.

ii. U.S. history scores from the fall and spring administrations in 2017-2018; and

iii. biology scores from the fall and spring administrations in 2018-2019.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

B.3.c. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July

2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 44:

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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., December 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings for state or local governmental units. Act 365 of 2017 allows the Board of Elementary and Secondary Education (BESE) and the state superintendent of education to approve waivers of required instructional minutes for schools that temporarily shared facilities, each holding school for part of the school day, due to the impact of a declared natural disaster or emergency. The proposed revisions update current policy to reflect the waiver approval process.

Additional changes to the TOPS University Diploma requirements are technical in nature and align policy for alternative pathways for grade level promotion and graduation of certain special education students with the statutes per Act 833 of 2014.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1711#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.203 and Chapter 9)

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 to revise *Bulletin 746—Louisiana Standards for State Certification of School Personnel* §203, PRAXIS Exams and Scores; §901, Overview; §903, Definitions; §905, Denial of Certificates for Criminal Offenses, for the Submission of Fraudulent Documentation, or for Participation in Cheating; §906, Procedures and Rules for Issuance of a Denied Certificate; §907, Suspension and Revocation of Certificates for Criminal Offenses; §908, Suspension and Revocation of Certificate/Endorsement Due to Participation in Cheating; §909, Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification; and §911, Procedures and Rules for Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions, Submission of Fraudulent Documents, Participation in Cheating, or Reinstatement of Expired Certificates Deemed Ineligible for Reinstatement Due to Criminal Convictions, Submission of Fraudulent Documents, or Participation in Cheating. Proposed revisions clarify and update policies relative to certification licensure denial, suspension, and revocation; proposed revisions also align policy related to Praxis exams and scores to align with federal criminal code and test scores.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification Areas

§203. PRAXIS Exams and Scores

(Formerly §243)

A. A teacher applicant for certification must successfully complete the appropriate written or computer-delivered tests identified in this Section prior to Louisiana teacher certification.

1. Core Academic Skills for Educators². Teacher applicants in all content areas must pass all three Praxis core academic skills tests for educators.

Pre-Professional Skills Test “Paper or Computer Administrations”	Test #	Score	Effective Date
PPST:R—Pre-Professional Skills Test: Reading	0710/5710	176	Effective 7/1/10 to 12/31/13
PPST:W—Pre-Professional Skills Test: Writing	0720/5720	175	
PST:M—Pre-Professional Skills Test: Mathematics	0730/5730	175	

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5712	156	Effective 1/1/14
Writing	5722	162	
Mathematics	5732	150	

¹ To differentiate the computer delivered tests, Educational Testing Service has placed the number “5” or “6” preceding the current test code. The Department will accept computer delivered passing test scores for licensure.

² NOTE: An ACT composite score of 22 or an SAT combined verbal and math score of 1100 or higher (New SAT) or 1030 or higher (pre-March 2016 SAT) may be used in lieu of Praxis 1 PPST Exams or Core Academic Skills for Educators in reading, writing and math by prospective teachers in Louisiana.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:

Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§901. Overview

A. Teaching certificates can be denied, suspended, or revoked for certain criminal offenses, for the submission of fraudulent documentation, or for participating in cheating. Certificates shall also be suspended for individuals who have earned three years of ineffective evaluations within a certification renewal period pursuant to Bulletin 130 and R.S. 17:3902. This Chapter presents those circumstances plus the circumstances under which certificates can possibly be reinstated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 38:3140 (December 2012), LR 32:1830 (October 2006), LR 38:3140 (December 2012), LR 44:

§903. Definitions

A. For the purposes of this policy:

Applicant—any person applying for a Louisiana teaching authorization of any kind.

Board—the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

Cheating—as determined by the LDE in accordance with *Bulletin 118—Statewide Assessment Standards and Practices*, cheating is a testing irregularity committed by a teacher or leader in order to alter student or school assessment results or by inappropriately accessing secure test materials in violation of Bulletin 118, §5303. The determination is made by the LDE in consultation with the LEA, as specific in Bulletin 118.

Convicted or Conviction—any proceedings in which the accused person pleads guilty or no contest, and those proceedings that are tried and result in a judgment of guilty.

Department—the Louisiana Department of Education.

Fraudulent Document—any paper, instrument, or other form of writing that is false, altered, or counterfeit and that is used as a subterfuge or device to induce the issuance of a certificate.

Offense or Crime—those listed in R.S. 15:587.1(C) and any felony offense whatsoever.

Teaching Certificate or Certificate—any license, permit, or certificate issued by the Division of Teacher Certification and Higher Education of the Department of Education.

B. The following crimes are reported under R.S. 15:587.1:

1. R.S. 14:2(B), R.S. 14:30, R.S. 14:30.1, R.S. 14:31, 14:32.6, 14:32.7, 14:32.8, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 15:541, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and those under the federal criminal code having analogous elements of criminal and moral turpitude. (Federal criminal code provisions are in title 18 of U.S.C.A.) Specifically:

R.S. 14:2(B)	Crimes of violence
*R.S. 14:30	First degree murder
*R.S. 14:30.1	Second degree murder
*R.S. 14:31	Manslaughter
*R.S. 14:32.6	First Degree Feticide
*R.S. 14:32.7	Second Degree Feticide
*R.S.14:32.8	Third Degree Feticide
*R.S.14:41	Rape
*R.S. 14:42	1st Degree Rape
*R.S. 14:42.1	2nd Degree Rape
*R.S. 14:43	3rd Degree Rape
*R.S. 14:43.1	Sexual battery
*R.S. 14:43.1.1	Misdemeanor sexual battery
*R.S. 14:43.2	2nd degree sexual battery
*R.S. 14:43.3	Oral sexual battery
* R.S. 14:43.4	Female genital mutilation
*R.S. 14:43.5	Intentional exposure to the AIDS virus
*R.S. 14:44	Aggravated kidnapping
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
R.S. 14:79.1	Criminal abandonment
*R.S. 14:80	Felony Carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
*R.S. 14:81.1	Pornography involving juveniles
*R.S. 14:81.2	Molestation of a juvenile or a person with a physical or mental disability
*R.S. 14:81.3	Computer-aided solicitation of a minor
*R.S. 14:81.4	Prohibited sexual conduct between educator and student
*R.S. 14:82	Prostitution (In some instances)
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
R.S. 14:82.1.1	Sexting
R.S. 14:82.2	Purchase of commercial sexual activity
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
*R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
*R.S. 14:86	Enticing persons into prostitution
*R.S. 14:89	Crime against nature
*R.S. 14:89.1	Aggravated crime against nature

R.S. 14:89.2	Crime against nature by solicitation
* R.S. 14:92	Contributing to the delinquency of juveniles (In some instances)
*R.S. 14:93	Cruelty to juveniles
R.S. 14:93.2.1	Child desertion
*R.S. 14:93.3	Cruelty to the infirm
*R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution
R.S. 14:283.1	Voyeurism
*R.S. 14:283	Video Voyeurism
R.S. 14:284	Peeping Tom
*R.S. 14:286	Sale of minor children
R.S. 15:541	Sex offenses
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution

* Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.

C. Convictions that are set aside pursuant to articles 893 or 894 of the *Louisiana Code of Criminal Procedures*, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purpose of denial or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:

§905. Denial of Certificates for Criminal Offenses, for the Submission of Fraudulent Documentation, or for Participation in Cheating

A. An application for a Louisiana teaching certificate or an application for the renewal of an expired Louisiana teaching certificate shall be denied if the department determines that the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever or has submitted fraudulent documentation, or has participated in cheating. A person convicted of an offense as defined herein or has submitted fraudulent documentation, or has participated in cheating may apply for a certificate after three years have elapsed from date of entry of final conviction, or from date of the submission of fraudulent documentation, or from the date of the report regarding the participation in cheating.

B. An application for a Louisiana teaching certificate or an application for a renewal of an expired teaching certificate shall be denied if the individual applying for the certificate has ever had any professional license/certificate denied, suspended, revoked, or voluntarily surrendered.

C. An application for a Louisiana teaching certificate or an application for a renewal of an expired Louisiana teaching certificate shall be denied if the individual is currently being reviewed or investigated for purposes of such action as stated in section 905.B or if such action is pending.

D. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied. The applicant shall provide copies of any documents that verify his/her identity, refute the existence of a criminal conviction, verify the accuracy of fraudulent documentation as submitted, or verify the accuracy of the report regarding the participation in cheating, as submitted. If a conviction or information upon which the certificate has been denied is reversed, such action should be communicated to the department through documentation provided by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 44:

§906. Procedures and Rules for Issuance of a Denied Certificate

A. Issuance will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:283, 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:78.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82 (in some instances), 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92 (in some instances), 14:93, 14:93.3, 14:106, and 14:286.

B. Issuance of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction or submissions of fraudulent documentation, or the date of investigation results regarding the participation in cheating, which resulted in certification suspension, revocation, or denial.

C. An applicant may apply to the board for the issuance of his/her Louisiana teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, or participation in cheating.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole or probation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for issuance of the certificate that was denied due to the submission of fraudulent documentation, due to conviction for a crime listed in R.S. 15:587.1 or for any felony, or due to participation in cheating.

2. Provide each applicable item identified above in Subsection C, evidence that all requirements for certification have been successfully completed, and further documentation evidencing rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education

department, law enforcement officials or from other community leaders.

E. - E.3. ...

4. The board may deny a request for a records review for any applicant who:

a. failed to disclose prior criminal convictions or expungements;

b. ...

c. has been found to have participated in cheating in the administration of standardized tests; or

d. received further criminal convictions or participated in cheating.

5. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be issued to the applicant. Board staff shall notify the applicant of the action of the board.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:

§907. Suspension and Revocation of Certificates for Criminal Offenses

A. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (see section I.B) or any felony offense whatsoever. If the Louisiana teaching certificate of an individual is expired, and the individual has been convicted of a felony offense, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department is notified that any teacher has been convicted of a specific crime:

1. - 2. ...

3. if the teacher cannot be reached or if his/her employment status cannot be determined, suspension of the certificate shall proceed, as will all other steps in the process outlined in this policy;

4. if the department determines that there is evidence that a teacher has been convicted of a criminal offense, the certificate issued to that teacher shall be suspended. The board, the teacher, and the employing school system shall be notified that the teaching certificate has been suspended pending official board action per revocation proceedings;

5. the teacher shall be notified by certified mail or by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be revoked unless the teacher can provide documentation that he/she was not convicted of the crime. The teacher shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction;

6. if the conviction upon which a teaching certificate has been suspended or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teaching certificate;

7. upon official action by the board, any teacher whose certificate has been revoked shall be notified of such

action. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 44:

§908. Suspension and Revocation of Certificate/Endorsement Due to Participation in Cheating

A. A Louisiana teaching or educational leadership certificate shall be suspended and revoked if the individual holding the certificate has been found by the LDE to have participated in cheating, as defined in §903.A of this Bulletin. If the Louisiana teaching certificate of an individual is expired, and the individual has been found to have participated in cheating, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department has determined that any teacher or administrator has been found to have participated in cheating, the following process shall take place.

1. Department staff shall attempt to contact the teacher or administrator to inform him/her that the department has information regarding his/her participation in cheating and is proceeding under this policy to suspend the certificate.

2. The teacher or administrator shall have 10 working days from the date of notification to provide verification that he/she has not been found to have participated in cheating. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the teacher or administrator cannot be reached, suspension of the certificate shall proceed, as will all other steps in the process outlined in this policy.

4. If the department determines that a teacher or administrator was found to have participated in cheating, the teacher or administrator certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher or administrator certificate has been suspended pending official board action per revocation proceedings.

5. The teacher or administrator shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be revoked unless the teacher/administrator can provide documentation that he/she was not found to have participated in cheating.

6. If the department subsequently determines that the teacher or administrator did not participate in cheating, such action shall be communicated to the department and/or the board through documentation provided by the department. The board may receive such information and may order reinstatement of the teacher or administrator certificate.

7. Individuals who do not hold a current Louisiana teaching/educational leadership certificate or who do not hold a Louisiana teaching/educational leader certificate and

who have been found to have participated in cheating in the administration of standardized tests shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

8. If the investigation concludes no findings of participating in cheating and the board has taken no formal action to revoke the teaching certificate, the department is authorized to release the suspension with the appropriate documentation, notifying the board of the action taken and providing supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3140 (December 2012), amended LR 44:

§909. Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification

A. A Louisiana teaching certificate shall be suspended or revoked if a teacher presents fraudulent documentation pertaining to his/her certificate to the state Board of Elementary and Secondary Education or the Department of Education. If the Louisiana teaching certificate of an individual is expired, and the individual has submitted fraudulent documents pertaining to certification, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. The department shall investigate prior to determining that a teacher has submitted fraudulent documentation pertaining to his/her teaching certificate. Upon confirmation of the information investigated, the department shall notify the teacher by certified mail that his/her certificate has been suspended pending official board action per revocation proceedings.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 38:764 (March 2012), LR 44:

§911. Procedures and Rules for Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions, Submission of Fraudulent Documents, Participation in Cheating, or Reinstatement of Expired Certificates Deemed Ineligible for Reinstatement Due to Criminal Convictions, Submission of Fraudulent Documents, or Participation in Cheating

A. Reinstatement will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:283, 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:78.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82 (in some instances), 14:82.1, 14:84,

14:86, 14:89, 14:89.1, 14:92 (in some instances), 14:93, 14:93.3, 14:106, and 14:286.

B. Reinstatements of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating, which resulted in certification suspension, revocation, or denial.

C. An applicant may apply to the board for reinstatement of his/her Louisiana teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions, submissions of fraudulent documentation, or investigations regarding participation in cheating.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole and probation.

D. - D.1. ...

2. Provide each applicable item identified above in Subsection C, evidence that all requirements for certification have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials, or from other community leaders.

E. - E.3. ...

4. The board may deny any request for issuance by any applicant who:

- a. failed to disclose prior criminal convictions or expungements;
- b. falsified academic records;
- c. has been found to have participated in cheating in the administration of standardized tests; or
- d. received further criminal convictions or participated in cheating.

5. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate issued to the applicant should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board action.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:

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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., December 9, 2017, to Shan N.

Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs or savings to state or local governmental entities. The proposed policy revisions define cheating and expand this basis for denial, suspension, or revocation of teaching certificates to individuals who apply for an initial Louisiana teaching certificate or renewal of an expired certificate; aligns Praxis exam scores to new SAT scoring; and updates state and federal criminal code references.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals may be denied a teaching certificate under the proposed cheating parameters and updated criminal codes. Reinstatement may be considered after three years; in some cases individuals may incur costs to submit required state and FBI background checks. Revocation is terminal for teachers convicted of certain felonies, as updated under proposed revisions. Further, new and/or renewal certificates shall be denied for individuals who have had any professional license/certificate denied, suspended, revoked, or voluntarily surrendered. These changes could limit an individual's ability to continue in the teaching profession, impacting earning capacity.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1711#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.Chapters 1-23)

The Louisiana Board of Regents announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking makes technical corrections to delete references to the Louisiana Student Financial Assistance Commission, to correct typographical errors, and to delete provisions made unnecessary by Act. This rulemaking also adds AP psychology as an equivalent social studies and adds Mandarin Chinese, Hindi, Portuguese, and Vietnamese as courses that may satisfy the foreign language requirement in the TOPS core curriculum. The rulemaking adds probability and statistics as an equivalent to math in the TOPS Tech core curriculum. (SG18179NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Board of Regents, formerly the Louisiana Student Financial Assistance Commission, (Board) was created by Chapter 20, Higher Education Assistance, Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and State and Federal Scholarship and Grant Programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the board, Administers State and Federal Post-Secondary Student Scholarship, Grant and Loan Programs.

B. Agency's Mission Statement. The mission of LOSFA is to administer the federal and state student aid programs that are assigned to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 27:1841 (November 2001), LR 33:439 (March 2007), LR 44:

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by the board including, but not limited to:

1. applicants and recipients;
2. high school counselors;
3. principals and headmasters;
4. superintendents;
5. college and university financial aid directors and staff; and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and post-secondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;

5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM), or Taylor Opportunity Program for Students (TOPS) Bulletins. These memoranda and bulletins will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with R.S. 17:5063, information shall be mailed to the president and superintendent of each city and parish school board in the state, the principal and counselors of each high school in the state, the chancellor, director of financial aid, business office, auditor and registrar of each public post-secondary school in the state and each regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 26:65 (January 2000), repromulgated LR 27:1841 (November 2001), amended LR 35:227 (February 2009), LR 44:

§105. Effective Date

A. These rules and regulations are effective for awards beginning with the 1998-99 academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), LR 24:1898 (October 1998), LR 27:1841 (November 2001), LR 44:

§107. Authority to Audit

A. By participating in the Scholarship and Grant Programs administered by the board and described in LAC 28:IV, all participants, including high schools and post-secondary institutions, grant the board and the Louisiana Legislative Auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and The board's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 27:1841 (November 2001), LR 44:

§109. Discrimination Prohibition

A. The exclusion of a person from equal opportunity for a Louisiana Scholarship and/or Grant Program administered by the board because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or

procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 27:1841 (November 2001), LR 44:

§111. Criminal Penalties

A. All certifications of student performance which are submitted to the board for the purpose of determining a student's eligibility for an award under a student aid program administered by the board shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 27:1841 (November 2001), LR 44:

§113. Personally Identifiable Information (PII)

A. The board recognizes that personally identifiable information must be collected and maintained to determine whether a student meets the initial and continuing eligibility requirements for state and federal financial aid programs administered by the board, and when required by law for use in preparing and submitting reports required by state and federal law.

B. The board is required by the TOPS statute to inform "all students of the availability of the assistance...early enough in their schooling that a salutary motivational effect is possible."

C. It is the intent and policy of the board that:

1. LOSFA will collect and maintain only that PII necessary to fulfill the board's program responsibilities and duties, including but not limited to:

a. providing information to participating students beginning in the eighth grade that will guide and motivate students to prepare for and to achieve eligibility for financial aid programs to attend postsecondary education;

b. determining the initial eligibility of participating students for financial aid;

c. determining the continuing eligibility of students awarded financial aid;

d. making payments for students who have been awarded financial aid; and

e. submitting reports and assessments required by state or federal law regarding the effectiveness of the financial aid programs administered by LOSFA;

2. LOSFA will maintain and comply with policies and procedures to protect PII from disclosure to third parties/entities that have not been authorized to have access by:

a. state or federal law;

b. the parent or legal guardian of the person to whom the PII applies, if the person is not at least 18 years old or judicially emancipated or emancipated by marriage; or

c. the person to whom the PII applies, if the person is at least 18 years old or judicially emancipated or emancipated by marriage;

3. LOSFA will ensure that LOSFA employees will have access only to that PII that is necessary to perform their duties;

4. LOSFA will provide information to parents, legal guardians, students and schools regarding:

a. requirements for consenting to the release of PII to LOSFA;

b. possible college access advantages provided to students by consenting to the release of PII to LOSFA; and

c. adverse consequences of withholding consent for release of PII to LOSFA;

5. LOSFA will develop and use consent forms that inform students, parents, and legal guardians of:

a. purpose(s) for which the PII will be used;

b. who will have access to the PII;

c. how long the PII will be retained by LOSFA; and

d. how the PII will be destroyed at the end of the retention period;

6. LOSFA will destroy PII that is no longer necessary to fulfill the board's program responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:649 (April 2015), amended LR 44:

Chapter 3. Definitions

§301. 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. The term "the board" refers to the Louisiana Board of Regents.

Academic Year (College)—begins with the fall term of the award year and concludes immediately before the next fall term commences unless specifically provided otherwise in these rules. All intersessions and summer sessions are included.

Academic Year (High School)—the annual academic year for high school begins on September 1 of the fall term, includes the winter, spring, and summer terms and ends on the next August 31. This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Louisiana Department of Education Bulletin 741.

Academic Year (TOPS)—

a. for students who are eligible for a TOPS Opportunity, Performance or Honors Award:

i. through the 2007-2008 academic year, the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the academic year are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year;

ii. during the 2008-2009 academic year, the academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the academic year, including the intersession immediately

following the spring term, are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or other intersessions;

iii. during the 2009-2010 and 2010-2011 academic years, the academic year begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the academic year is included. The two- and four-year college and university academic year does not include other intersessions or summer sessions. See the definition of intersession below;

iv. beginning with the 2011-2012 academic year and thereafter, the academic year begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

b. for students who are eligible for a TOPS Tech Award, the academic year begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

ACT Score—the highest composite score achieved by the student on the official ACT test (including national, international, military or special test types) or an equivalent score, as determined by the comparison tables used by the board, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

Application to Return from an Out-of-State College—a form that must be submitted by students who first enroll full time in an accredited out-of-state college or university and who then return to an eligible Louisiana college or university and want to apply for TOPS eligibility.

Articulated Courses for College Credit—courses offered by the Louisiana School for Math, Science and the Arts for which eligible Louisiana colleges have agreed to give college credit if the student successfully completes the course and attends a participating college.

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the 2016-2017 academic year (TOPS) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

Award Amount—

a. Through the 2015-2016 academic year (college), an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the board, which may be used by the student to pay any educational expense included in that

student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

i. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

ii. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the weighted average award amount.

iii. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

iv. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

v. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

vii. For students with a TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

viii. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the weighted average award amount, depending upon whether the Louisiana professional school is a public or private school.

ix. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana graduate degree program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

b. Beginning with the 2016-2017 academic year (college), the award amount determined by the board in accordance with Subparagraph a.i-ix., above during the 2016-2017 academic year (college), plus any increase in the

award amount specifically authorized by the Louisiana Legislature.

Award Year—the academic year (TOPS) during which a TOPS award is paid.

BESE—Board of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance—the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, childcare, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a Cooperative Education Program.

Court Ordered Custodian—an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor.

Dependent Student—a student who is dependent on his parents for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student—a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

Dual Enrollment Course—a course for which both high school and college credit may be granted.

Eligible Colleges or Universities—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; for recipients of the TOPS Tech Award only, beginning with the 2009-2010 academic year (TOPS), and for recipients of the TOPS Tech, Opportunity, Performance and Honors Award, beginning with the 2010-2011 academic year (TOPS), any school that has a valid and current certificate of registration issued by the state Board of Cosmetology in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the board in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

Eligible Cosmetology or Proprietary School—a cosmetology or proprietary school that is included as an eligible college or university in this Section.

Eligible Noncitizen—

a. an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen

or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. beginning with the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

Eligible Non-Graduate—a student who has not graduated from high school or completed a home study program approved by BESE, but who meets all the criteria listed in §703.A.5.g.

Eligible Non-Louisiana High School and Eligible Out-of-State High School and Eligible Out-of-Country High School—see §§1701.A.3, 1701.A.4, and 1701.A.5, respectively.

Exceptional Child—a student defined as an exceptional child in accordance with R.S. 17:1943(4), excluding gifted and talented.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule—a listing of the actual tuition and mandatory fees for attendance at a post-secondary school as defined by the institution.

First-Time Freshman—a student who is awarded TOPS opportunity, performance, or honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a Vocational or Technical Education Certificate or Diploma Program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for term and quarter institutions). A student who is awarded TOPS opportunity, performance, or honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a first-time freshman for the immediately succeeding fall term. A student who is awarded TOPS opportunity, performance, or honors and begins in a non-academic program in a post-secondary school in a summer term will be considered a first-time freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to

graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a first-time freshman.

First-Time Student—

a. for students graduating through the 2015-2016 academic year (high school), a student who is awarded TOPS-Tech and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools). The fact that a student who is eligible for a TOPS-Tech award enrolls in an academic program at a post-secondary school prior or subsequent to graduation from high school, but prior to the required date for full-time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a first-time student;

b. for students graduating in the 2016-2017 academic year (high school) or later, a student who is eligible for a TOPS-Tech award and enrolls for the first time, full-time in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the board and the Louisiana Workforce Investment Council and is enrolled full-time at the end of the fourteenth class day or later (ninth class day or later for quarter schools).

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the 14th class day or later at a semester school or the 9th class day or later at a quarter or term school;

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining eight quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends (see §705.A, 705.D, 805.A, and 907.A for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status.

g. a student enrolled in an eligible cosmetology or proprietary school who is considered by the school to be enrolled full time on a billing date as provided in §1903.B.2.b.

*Gifted Course—*a course developed and provided to fulfill an Individualized Education Program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq. as implemented in state Board of Elementary and Secondary Education policy.

*High School Graduate—*for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed a BESE-Approved home study program in accordance with the requirements of this Chapter and has reported such to BESE. A student who graduates at any time during an academic year (high school) shall be deemed to have graduated on May 31 of that year for the purpose of applying deadlines. For the purpose of determining when a student must begin post-secondary enrollment, all students that report completion of an approved home study program to BESE during an academic year (high school) are deemed to have graduated on May 31 of that year.

*Honors Courses—*a rigorous high school course used to complete the TOPS core curriculum approved as an *honors course* for grading on a 5.00 scale by BESE and the board.

*Honors Curriculum Courses—*any course designated by the respective school district as advanced placement, honors or gifted.

*Independent Student—*a student who meets at least one of the criteria listed in Subparagraphs a-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Intersession—

a. During the 2008-2009 academic year, an academic term between regular semesters/terms that

provides credit courses to students in an intensive, condensed format.

b. Beginning with the 2009-2010 academic year, any academic term that provides credit courses to students in an intensive, condensed format that is no longer than 15 class days.

Join—enters on active duty.

Legal Guardian—

a. an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a court ordered custodian;

b. for the purposes of consenting to the collection and disclosure of personally identifying information, the student's parent, legal guardian, or other person responsible for the student.

Louisiana Resident—

a. any independent student or any dependent student with at least one parent or court ordered custodian who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the academic year (high school) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the board. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the board may require an independent student applicant or the parent(s) or court ordered custodian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the board. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or court ordered custodian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the board:

i. if registered to vote, a Louisiana voters registration card; and

ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and

iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and

iv. if earning a reportable income, a Louisiana tax return;

b. any member of the Armed Forces on active duty whose official state of legal residence is Louisiana as demonstrated by the member's DD Form 2058 validated by the member's military personnel officer or other documentary proof and who has filed a Louisiana tax return for the most recent two years in compliance with Clause a.iv, above;

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than 180 days after reporting to such station, changes his military DD Form 2058 to reflect Louisiana as his state of legal residence, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of the Permanent Change of Station (PCS) Orders and a DD Form 2058 validated by the

member's military personnel officer and showing Louisiana as the member's state of legal residence must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within 180 days after the member reported to duty at a duty station in Louisiana;

d. a parent or court-ordered custodian who is living outside the United States and its territories, is actively engaged in work or another activity on behalf of a Louisiana employer or sponsor, and is not on active duty with the United States armed forces, may meet the residency requirement for dependent students by providing a sworn affidavit with supporting evidence that the parent or court-ordered custodian complies with all of the following:

i. was a resident of Louisiana who actually lived in Louisiana for at least the 24 months preceding the date he started the work or activity outside the United States and its territories;

ii. was assigned duties outside the United States and its territories by a Louisiana employer or sponsor and continues to be employed by the employer or perform duties for the sponsor through the date of the student's graduation from high school or completion of a home study program approved by BESE;

iii. has remained a resident of Louisiana through the date of the student's graduation from high school or completion of a home study program approved by BESE. Evidence may include a Louisiana voters registration card, a Louisiana driver's license, a Louisiana registration for an owned vehicle, a Louisiana tax return, notarized affidavits, copies of correspondence from the employer or sponsor providing the reason for living outside the United States and its territories and the time period of the work or activity, copies of visas, copies of foreign housing documentation, and copies of other documents that demonstrate a presence in Louisiana or a foreign country during the required period of time;

e. effective for high school graduates beginning with academic year (high school) 2002-2003, any independent or dependent student who actually resides in Louisiana during his last two full years of high school. In order to qualify pursuant to this Subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

f. effective for high school graduates beginning with academic year (high school) 2000-2001, any dependent student who actually resided in Louisiana during his last two full years of high school and whose parent is a member of the United States Armed Forces living in Louisiana under permanent change of station orders, but who does not claim Louisiana as his official state of legal residence. In order to qualify pursuant to this Subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

g. effective for high school graduates of academic year (high school) 2001-2002 and 2002-2003, any dependent student who was continuously enrolled in a Louisiana public

high school or nonpublic high school that is approved by BESE during his last two full years of high school, whose parent or court ordered custodian:

- i. is a resident of a state that adjoins Louisiana; and
- ii. actually resides in a county that adjoins a Louisiana parish having a population greater than 41,600 and less than 42,400 according to the federal 2000 census; and
- iii. has filed a Louisiana state income tax return and complied with state income tax laws and regulations; or
- iv. is assessed ad valorem taxes on property owned in Louisiana.

In order to qualify pursuant to this Subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

h. For any dependent student graduating from an out-of-state high school during the 2006-2007 academic year (high school) whose parent or court-ordered custodian was a member of the United States armed forces who, in the year 2006, moved from Louisiana under permanent change of station orders and retired from the armed forces, and changed his military personnel records to reflect a change of his state of legal residence from Louisiana to another state, shall meet the requirements of this Item, provided that such parent or court-ordered custodian changes his military personnel records from the other state to reestablish Louisiana as his state of legal residence no later than July 1, 2007, and has filed a Louisiana state income tax return for the two years preceding the date of the dependent's graduation from high school.

Merit Ranking Formula—a mathematical equation incorporating selected merit factors that is used to rank eligible applicants in the priority by which initial competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula IA—applies to applicants for the Rockefeller State Wildlife Scholarship who are qualified home study completers with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left(\frac{\text{ACT}}{36} \right) \times 100$$

c. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the

TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

d. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

e. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

f. In the event of a tie, the eligible applicants will be ranked based on the following criteria in the order listed:

- i. the applicant with more college hours earned; or
- ii. the student with the highest ACT (or equivalent SAT) score.

Monetary Repayment—for purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *repayment*.

On-Line Application—submission of a request for a TOPS eligibility determination via the LOSFA TOPS website. If the applicant does not submit a FAFSA, the on-line application will require the student to declare that he can demonstrate that he is not eligible for federal grant aid.

Orphan—a person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

Over Award—for the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

Personally Identifiable Information or *PII*—personal information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual.

Qualified Summer Session—those summer sessions (includes terms and semesters conducted during the summer) for which the student's institution certifies that:

- a. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or
- b. the student can complete his program's graduation requirements in the summer session; or
- c. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session; or
- d. the course(s) taken during the summer session is in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

e. for the summer of 2006 only, the student is a displaced student as identified in §2103.G.1 of these rules, whose TOPS award was not paid for one or more semesters during the 2005-2006 academic year; or

f. beginning with the summer of 2010, prior to the beginning of the summer session, the student:

i. has at least 60 academic college credit hours;

ii. has enrolled as a full time student for the summer session; and

iii. has signed a form provided by LOSFA:

(a). requesting payment for the summer session from the student's remaining TOPS eligibility;

(b). stating the student understands that the use of the TOPS award for the summer session reduces the student's TOPS eligibility by one semester or term; and

(c). stating the student understands that the grades earned during the summer session will be included in the student's cumulative grade point average.

Refund—a refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—the amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *monetary repayment*.

Reporting Institution—the post-secondary institution required by §1903.A of these rules to report a student's college/university cumulative grade point average.

Returning Student—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS Opportunity, Performance or Honors Award and enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year (TOPS).

Selective Enrollment Program—an advanced college course of study with competitive admissions based on a student's qualifications including successful completion of required college courses and a minimum college cumulative

grade point average. Examples of Selective Enrollment Programs include, but are not limited to, medical technology, nursing (Bachelor of Science), occupational therapy, physical therapy, and radiation technology.

Skill and Occupational Training—

a. any and all certificate, diploma, associate of applied technology, and associate of applied science programs offered by eligible colleges/universities;

b. any coordinated and comprehensive course of study offered by eligible colleges/universities which qualifies a student upon completion to sit for testing leading to and/or meeting national and/or state professional/occupational licensure and/or certification requirements; and

c. any training leading to an industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council offered by a provider recognized by the Louisiana Workforce Commission.

Steady Academic Progress—the maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale, except at eligible cosmetology or proprietary schools, where it is meeting the federal grant aid requirement for steady academic progress at that school.

Substantial Financial Need—for purposes of the LEAP (formerly SSIG) Program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

Talented Course—a course developed and provided to fulfill an individualized education program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq., as implemented in state Board of Elementary and Secondary Education policy.

TOPS Cumulative Grade Point Average (Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Non-Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and

must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Opportunity, Performance, Honors)—beginning with the 2015-16 academic year (TOPS), the grade point average for students with the TOPS Opportunity, Performance and Honors Awards shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions.

a. These courses shall include those taken at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Opportunity, Performance or Honors Award.

TOPS Cumulative Grade Point Average (TOPS Tech)—beginning with the 2015-2016 academic year (TOPS) the grade point average for a student with the TOPS Tech Award shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions while enrolled in a skill, occupational or technical program.

a. These courses shall include all those taken in skill, occupational or technical programs at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses while enrolled in a skill, occupational or technical program for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Tech Award.

TOPS Cumulative High School Grade Point Average—

a. effective for high school graduates beginning with academic year (high school) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the *TOPS cumulative high school grade point average* shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has

taken more than one advanced mathematics course, the cumulative grade point average shall be determined by using only the course in which the student has received the highest grade;

b. effective for high school graduates beginning with academic year (high school) 2002-2003, the grade point average for students qualifying for a performance award using a minimum ACT score of 24 and a minimum grade point average of 3.00 must include at least 10 units of honors curriculum courses (see §703.A.5.f.ii);

c. effective for high school graduates beginning with academic year (high school) 2007-2008, the grade point average shall be calculated on 17.5 hours of units of courses that are used to satisfy the core curriculum;

d. effective for high school graduates beginning with academic year (high school) 2013-2014, the grade point average shall be calculated on 19.0 hours of units of courses that are used to satisfy the core curriculum;

e. effective for high school graduates through academic year (high school) 2016-2017, for those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For example, if a school awards a maximum of 5 points for honors courses, the school must use the following formula to convert an honors course grade of "C":

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS cumulative grade point average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the board and BESE, used to complete the TOPS core curriculum on a 5.00 scale, shall be converted to a 4.00 scale utilizing the following formula:

- An "A" shall equal 4.0.
- A "B" shall equal 3.0.
- A "C" shall equal 2.0.
- A "D" shall equal 1.0.
- An "F" shall equal zero (0.0).

The quality points for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses

approved by the board and BESE used to complete the TOPS core curriculum shall be converted to a 5.00 scale as follows:

- An "A" shall equal 5.0.
- A "B" shall equal 4.0.
- A "C" shall equal 3.0.
- A "D" shall equal 2.0.
- An "F" shall equal zero (0.0).

Tuition—

a. through the fall semester or term and winter quarter of the 2010-2011 award year, the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- i. which were in effect as of January 1, 1998;
- ii. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- iii. for programs with alternative scheduling formats that are approved in writing by the board after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

(a). up to the equivalent of eight full-time semesters of postsecondary education in full-time semesters for the TOPS Opportunity, Performance and Honors Award; or

(b). up to the equivalent of two years of postsecondary education in full-time semesters and summer sessions for the TOPS Tech Award.

b. beginning with the spring semester, quarter or term of the 2010-2011 award year and through the spring semester, quarter, or term of the 2012-2013 award year;

- i. the tuition and mandatory fees authorized in Subparagraph a above; or
- ii. the tuition fee amount published by the postsecondary institution, whichever is greater.

c. Beginning with the fall semester, quarter, or term of the 2013-2014 award year, the tuition amount as of August 1, 2013, published by the postsecondary institution for the 2013-2014 award year for paying students;

d. beginning with the fall semester, quarter, or term of the 2014-2015 award year, the tuition amount as of August 1, 2013, published by the postsecondary institution for the 2013-2014 award year for paying students, plus any increase authorized by the legislature which is not attributable to any fees. No fees or increases attributable to fees of any kind shall be included in the TOPS award amount. Stipends for TOPS Performance and Honors awards shall not be included in the TOPS award amount.

Undergraduate Student—a student who has not completed the requirements for a baccalaureate degree program.

Weighted Average Award Amount—for those students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the 2016-2017 academic year, excluding award stipends, to students attending public

colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

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Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. Initial Application for High School Graduates of 2002-2003 or Earlier

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS-Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year (TOPS) the applicant will be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

a. All applicants for TOPS Opportunity, Performance and Honors Awards and TOPS-Tech Awards (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

b. Applicants for TOPS Opportunity, Performance and Honors Awards and TOPS-Tech Awards who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete

all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

c. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors Awards and TOPS-Tech Awards who do not complete all sections of the FAFSA will be the first denied a TOPS Award.

B. Initial Application for a TOPS Award for High School Graduates and Home Study Completers of 2003-2004 and Thereafter, and Eligible Non-Graduates

1. Students who graduate from a Louisiana public high school as defined in §1703.A.1, an approved Louisiana non-public school as defined in §1701.A.2, or an eligible non-Louisiana public school as defined in §1701.A.3 must:

a. submit a Free Application for Federal Student Aid (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application.

2. Students who graduate from an eligible out-of-state or out-of-country high school or complete a home study program approved by the Louisiana Board of Elementary and Secondary Education or enroll for the first time as a full-time student in an out-of-state college or university following graduation from an eligible high school (Louisiana public high school as defined in §1703.A.1, an Approved Louisiana non-public school as defined in §1701.A.2, an eligible non-Louisiana public school as defined in §1701.A.3, out-of-state high school as defined by §1701.A.4 or an out-of-country high school as defined by §1701.A.5) must:

a. submit a free Application for Federal Student Aid; or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application; and

d. submit an official transcript from the out-of-state or out-of-country high school from which the student graduated; and

e. submit the official transcripts from each out-of-state college or university attended; and

f. submit an affidavit attesting to Louisiana residency, except those students who completed their last two years in and graduated from a Louisiana Public or approved non-public high school.

3. Eligible non-graduates must:

a. submit a Free Application for Federal Student Aid, (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete an on-line application.

4. Applicants for TOPS Opportunity, performance and honors awards and TOPS-Tech Awards who submit the

on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

5. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors Awards and TOPS-Tech Awards who submit the on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS Award.

C. Initial Application for Louisiana Scholarship and Grant Programs other than TOPS for High School Graduates of 2004 and Thereafter

1. All new applicants for Louisiana Scholarship and Grant Programs other than TOPS and the Rockefeller State Wildlife Scholarship must apply for federal grant aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2003-2004, submit the 2004-2005 version of the FAFSA.

2. All new applicants for the Rockefeller State Wildlife Scholarship must apply for federal grant aid by submitting the FAFSA so that it is received no later than July 1 immediately preceding the academic year (college) for which the scholarship is sought. For example, if the student wants to apply for a Rockefeller Scholarship to be awarded during the 2005-2006 academic year (college), submit the 2005-2006 version of the FAFSA no later than July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:1060 (May 2005), LR 41:659 (April 2015), repromulgated LR 44:

§502. Consent Required to Process Applications and Deadlines

A. To process an application for financial aid or to allow participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs, certain student personally identifiable information (PII) must be provided to the board. The PII required depends on the financial aid program for which the student is applying. If the required PII is not provided, an applicant will not be determined to be eligible.

B. The submission of an application for a financial aid program administered by the board or for participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs constitutes consent for the student's school to collect and disclose the student's PII to LOSFA, and for LOSFA to collect, maintain, and use the PII for the program in which the student has indicated a desire to participate, if submitted by:

1. a student who is judicially emancipated, or emancipated by marriage, or who is 18 years old or older; or

2. a parent or legal guardian on behalf of a student who is not at least 18 years old and who is not emancipated.

C. To grant consent for a public school to collect the student's PII and disclose it to LOSFA, the student, parent or legal guardian, as applicable, must sign a consent form

provided by the public high school that includes the following:

1. purpose(s) for which the PII will be used;
2. who will have access to the PII;
3. how long the PII will be retained by LOSFA; and
4. how the PII will be destroyed at the end of the retention period.

D. Submission of one of the following constitutes consent for LOSFA to collect, maintain, and use the PII included in the submission for the purposes of determining eligibility for financial aid:

1. free application for federal student aid (FAFSA) naming LOSFA as a recipient;
2. ACT score naming LOSFA as a recipient;
3. ACT WorkKeys score naming LOSFA as a recipient;
4. SAT score naming LOSFA as a recipient;
5. TOPS on-line application.

E. The required information for consideration for initial eligibility for a TOPS award, includes, but is not limited to, all the following student information:

1. full name;
2. date of birth;
3. Social Security number;
4. student high school transcript data, including but not limited to:
 - a. month and year of high school graduation;
 - b. the course code for each course completed;
 - c. the grade for each course completed;
 - d. the term and year each course is completed;
 - e. designation of each advanced placement,

International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

- f. the grading scale for each course reported; and
 - g. the high school attended for each course reported;
5. ACT, ACT WorkKeys, and/or SAT scores;
 6. FAFSA data;
 7. college transcript data as set forth in Section 1903.

F. The required information for consideration for eligibility for other awards, grants and programs may include, but is not limited to, the following student information:

1. the information set forth in Subsection E above;
2. student disciplinary data;
3. family income;
4. dual enrollment high school and college transcript data;
5. foster care status;
6. ACT plan score;
7. school lunch program status;
8. standardized test scores;
9. grade point average for each semester and cumulative grade point average.

G. Deadlines to Provide Consent to a Public School for the Release of a Student's PII to LOSFA

1. For participation in LOSFA's program for guidance and motivation to prepare for and to achieve eligibility for financial aid programs, the parent or legal guardian, as applicable, should provide consent by the eighth grade.

2. For eligibility for payment of a TOPS award for the fall semester immediately following high school graduation, the student, parent or legal guardian, as applicable, should provide consent no later than January 15 of the year of graduation.

3. The final date for receipt of consent is the January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. See Section 505 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:650 (April 2015), LR 44:

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline for Full Award

1.a. Except as provided in Subparagraph B.1.b below, in order to receive the full benefits of a TOPS Award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1 of the academic year (high school) in which a student graduates. For example, for a student graduating in the 2000-2001 academic year (high school), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1 immediately preceding the academic year (TOPS) in which the applicant will be a first-time, full-time student.

c. Examples

i. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2003, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2003).

ii. If an applicant graduates in the 2002-2003 academic year (high school) and will be a first-time, full-time student in the fall semester of 2004, the applicant must submit the initial FAFSA in time for it to be received by the federal processor by July 1, (2004).

d. Students must also apply in time to meet the first-time freshman enrollment deadlines specified in §703.A.4 (TOPS opportunity, performance and honors) and §803.A.4 (TOPS-Tech).

2. Notwithstanding the deadline established by §503.B.1 above, applicants who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application of one year from the date of separation from active duty. In order to be eligible under this Subsection, the applicant must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, returning students, who graduated from high school during the 2001-2002 academic year (high school) and who enroll in an eligible college or university in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, returning students, who enroll in an eligible college or university in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment.

c. Examples

i. A student who seeks to enroll in an eligible college or university for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004.

ii. A student who seeks to enroll in an eligible college or university for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than 60 days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than 60 days after the deadline provided in §503.B above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

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§504. Out-of-State and Out-of-Country High School Graduates and Eligible Non-Graduates

A. A student who graduates from a high school outside the state of Louisiana or is an eligible non-graduate will not be considered for a TOPS Award unless the board receives the student's FAFSA information from the federal processor or on-line application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana or an eligible non-graduate to assure that his FAFSA information and his ACT/SAT score(s) are received by the board, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the Louisiana Taylor Opportunity Program-Students, Baton Rouge, LA.) in the "score report choices" section of the ACT and/or 9019 (code for Taylor Opportunity Program for Students) in the "send scores" section of the SAT registration form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:2017 (September 2004), amended LR 31:36 (January 2005), LR 35:228 (February 2009), LR 44:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1. To be considered for a TOPS Award, students who graduate from high school or complete an approved home study program in 2004 or later and eligible non-graduates must:

a. apply for federal grant aid by submitting a Free Application for Federal Student Aid (FAFSA); or

b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents; or

c. complete the on-line application.

2. TOPS will not pay the award amount for any student who has not met the requirements of §505.A.1 above.

3. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors Awards and TOPS-Tech Awards who submit the on-line application or who do not complete all sections of the FAFSA will be the first denied a TOPS Award.

B. Deadline for Payment for the Academic Year (TOPS) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (TOPS), to be determined eligible for payment of TOPS

awards for the academic year (TOPS) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (TOPS), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (TOPS) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (TOPS), the student has met the requirements for continuing eligibility.

3.a. Beginning with the 2010-2011 academic year (TOPS), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full-time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

b. If the initial FAFSA or on-line application is received after July 1 immediately following high school graduation, the payment of the TOPS award could be delayed depending on the date the application is received and the date the student enrolls for the first time as a full time student in an eligible college or university.

c. A student who enrolls for the first time as a full time student before his FAFSA or on-line application is received must meet the requirements for maintaining eligibility in §705 to receive payments of his TOPS award after the first semester, quarter or term of full time enrollment at an eligible college or university.

4. Examples

a. A 2009-2010 academic year (high school) high school graduate, who enrolls in the fall semester of 2010, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received on or before July 1, 2010.

b. A 2009-2010 academic year (high school) high school graduate, who enrolls during the 2010-2011 academic year, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received no later than July 1, 2011, and if he has met the requirements for continuing eligibility.

C. Final Deadline for Full TOPS Award

1.a. Except as provided below, through the 2006-2007 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (TOPS) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (TOPS) immediately following the one-year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (TOPS) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (TOPS) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (TOPS) or fall semester of 2005 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in

§701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (TOPS) or fall semester of 2006 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (TOPS) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (TOPS) or the fall semester of 2007 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the

academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

3. Examples

a. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2004.

b. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2004, but on or before October 29, 2004.

c. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2004 or spring semester of 2005, will be eligible for his full TOPS award beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after October 29, 2004, but on or before July 1, 2005, and if he has met the requirements for continuing eligibility.

d. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2005.

e. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2005 if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

f. A 2003-2004 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 31, 2005.

g. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2005.

h. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2005, but on or before October 31, 2005.

i. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2005 or spring semester of 2006, will be eligible for his full TOPS award

beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after October 31, 2005, but on or before July 1, 2006, and if he has met the requirements for continuing eligibility.

j. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2006.

k. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2006 if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

l. A 2004-2005 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 30, 2006.

m. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2006.

n. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received after July 1, 2006, but on or before October 30, 2006.

o. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2006 or spring semester of 2007, will be eligible for his full TOPS award beginning with the fall semester of 2007 if his initial FAFSA or on-line application is received after October 30, 2006, but on or before July 1, 2007, and if he has met the requirements for continuing eligibility.

p. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2007.

q. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2007 if his initial FAFSA or on-line application is received after July 1, 2007, but on or before October 29, 2007.

r. A 2005-2006 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2007.

s. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive the full benefits of a TOPS award beginning with the first semester of enrollment as a full-time student if his initial FAFSA or on-line application is received no later than July 1, 2007.

t. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2007 or spring semester of 2008, will be eligible to receive his full TOPS award beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2007, but on or before July 1, 2008, and if he has met the requirements for continuing eligibility.

u. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible to receive the full benefits of a TOPS award if his initial FAFSA or on-line application is received no later than July 1, 2008.

v. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will be eligible for a reduced TOPS award (See Subsection 505.D, below.) beginning with the fall semester of 2008 if his initial FAFSA or on-line application is received after July 1, 2008, but on or before October 29, 2008.

w. A 2006-2007 academic year (high school) high school graduate, who is a first-time freshman at an eligible college or university in the fall semester of 2008, will not be eligible for a TOPS award if his initial FAFSA or on-line application is received after October 29, 2008.

x. A student, who enrolls for the first time as a full time student at an accredited out-of-state college and subsequently returns to Louisiana and enrolls as a full-time student in an eligible college or university for the fall semester of 2006, will be eligible for his TOPS award beginning with the fall semester of 2006 if his initial FAFSA or the on-line application is received no later than July 1, 2007.

4. Students must also meet the first-time freshman enrollment deadlines specified in §703.A.4 (TOPS opportunity, performance and honors) and §803.A.4 (TOPS-Tech).

5. Notwithstanding the deadline established by §505.C above, students who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application or their on-line application of one year from the date of separation from active duty. In order to be eligible under this Subsection, the student must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

D. Final Deadlines for Reduced Awards

1. If an application for an initial award under this Chapter is received after the final deadline provided in §503.C above, but not later than 60 days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than 60 days after the final deadline provided in §503.C above, but not later than 120 days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. A FAFSA or on-line application received more than 120 days after the published deadline shall not be considered.

E. The reduction of the student's period of eligibility for this award under §505.D above shall not be cumulative with any reduction under §509.C.

F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (TOPS) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. All recipients of Louisiana Scholarship and Grant Programs other than TOPS and the Rockefeller Wildlife Scholarship Program must submit a renewal FAFSA for each academic year (TOPS) the student enrolls.

G. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006), LR 33:83 (January 2007), LR 33:2357 (November 2007), LR 34:235 (February 2008), LR 37:588 (February 2011), LR 41:660 (April 2015), LR 44:

§506. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, or the on-line application, the board will accept the documentation listed in §506.A.1-6. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Student Aid Report (SAR) or the Institutional Student Information Report (ISIR), produced by the federal

processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to the board that the original application was received by the state's final deadline.

4. A printed copy of the electronic receipt for a FAFSA filed on the Web shows that the original application was received by the final deadline.

5. A printed copy of the electronic receipt for an on-line application shows that the original application was received by the final deadline.

6. The LOSFA's on-line application submission confirmation code corresponds to a LOSFA database transaction by the final deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:2018 (September 2004), amended LR 31:1060 (May 2005), LR 44:

§507. Final Deadline for Submitting Documentation of Eligibility

A. The board will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 academic year (TOPS), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by the board no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, the board must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 academic year (TOPS) through the 2010-11 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by the board no later than July 1 immediately following the academic year (TOPS) the student is first eligible for payment of a TOPS award. For example, if a student's initial FAFSA is received no later than July 1, 2007, for that student to receive an award for the 2007-2008 academic year (TOPS), the board must have in its possession all documents relevant to establishing eligibility by July 1, 2008.

3. Beginning with the 2011-12 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining

eligibility, must be received by the board no later than January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. For example, if a student's graduates from high school in May 2011, the final deadline for receipt of the student's FAFSA or on-line application is July 1, 2012, and the deadline for receipt of all documents relevant to establishing eligibility is January 15, 2013.

C. Returning Students

1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (TOPS) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3.a. Returning students, who enroll in an eligible college or university in academic year (TOPS) 2005-2006 or academic year (TOPS) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b.i. To receive the full benefits of a TOPS award as provided in §701.E, returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

ii. If an application to return from an out-of-state college is received after the July 1 deadline as provided in the clause above, but not later than 60 days after that date, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iii. If an application to return from an out-of-state college is received more than 60 days after the July 1 deadline as provided in the clause above, but not later than 120 days after that date, the time period of eligibility for the award shall be reduced by two semesters, three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iv. An application to return from an out-of-state college received more than 120 days after the July 1 deadline shall not be considered.

v. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

vi. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on July 10, 2010, will be eligible for a TOPS award reduced by one semester or two quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

vii. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on September 10, 2010, will be eligible for a TOPS award reduced by two semesters or three quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (TOPS), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by the board no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line

application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in the board's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.

ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in the board's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in the board's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (TOPS), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 academic year (TOPS) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than July 1 immediately following the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 academic year (TOPS), the student must submit the required documents no later than July 1, 2007.

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

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§509. ACT Testing Deadline

A.1. The student must take the official ACT test (including national, international, military or special test types) on or before the official April test date in the academic year (high school) in which the student graduates or completes a home study program approved by BESE.

2. An eligible non-graduate must take the official ACT test (including national, international, military or special test types) before the first day of the semester the student first enrolls in an eligible college or university.

B.1. The student may substitute an equivalent score, as determined by the comparison tables used by the board, on an equivalent SAT taken on or before the official April test date in the academic year (high school) in which the student graduates. In order to substitute a SAT score, the student must direct the college board to send the score to LOSFA so that the score is electronically reported to LOSFA by the college board within 45 days of the final test date allowed by §509. SAT scores received in any other manner shall not be considered.

2. An eligible non-graduate may substitute an equivalent score, as determined by the comparison tables used by the board, on an equivalent SAT taken before the first day of the semester the student first enrolls in an eligible college or university. In order to substitute an SAT score, the student must direct the college board to send the score to LOSFA so that the score is electronically reported to LOSFA by the college board within 45 days of the final test date allowed by §509. SAT scores received in any other manner shall not be considered.

C. Final ACT Testing Deadline for Reduced Awards

1.a. Beginning with awards made to applicants graduating in academic year (high school) 2000 through 2003, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April

national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS award.

b.i. Beginning with awards made to applicants graduating in academic year (high school) 2004 through 2010, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS award.

ii. Beginning with awards made to applicants graduating in academic year (high school) 2011, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted or, if the board determines that the applicant was prevented from taking the test prior to July 1 of the year of graduation due to circumstances beyond the immediate control of the student and attributable to the administration of the test, the applicant's first qualifying score for any TOPS award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to October 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS award.

c. For the purpose of the Subsection, the *April national ACT test date* shall be defined as the month of April.

d. Tests taken by an eligible non-graduate after the first day of the semester the student first enrolls in an eligible college or university shall not be accepted.

2.a. Beginning with applicants graduating in academic year (high school) 1997 through 2010, applicants who fail to achieve an ACT or SAT qualifying score prior to July 1 of the year of high school graduation shall not be considered for an award.

b. Beginning with applicants graduating in academic year (high school) 2011, applicants shall not be considered for an award if they fail to achieve a qualifying score on the ACT or on the SAT prior to July 1 of the year of high school graduation, or prior to October 1 of the year of high school graduation, if the board determines that the applicant was prevented from taking the test prior to July 1 of the year of graduation due to circumstances beyond the immediate control of the student and attributable to the administration of the test.

D. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

E. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS Award and who obtained a qualifying score on the ACT Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of §509.A and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:1161 (June 2004), LR 31:37 (January 2005), LR 38:3157 (December 2012), LR 44:

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

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Taylor Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:5001 et seq., as amended.

B. Description, History and Purpose. The Taylor Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue post-secondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity Award, the Performance Award and the Honors Award.

C. The Opportunity, Performance and Honors Awards, which will be funded for the 1998-99 academic year, combine former programs [Louisiana Tuition Assistance Plan (TAP) and the Louisiana Honors Scholarship Program]

with a new component, the honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana post-secondary institution; and
2. encourage academic excellence; and
3. provide incentives for Louisiana high school graduates to pursue post-secondary education in this state.

E. Award Amounts. The specific award amounts for each component of TOPS are as follows:

1.a. The TOPS Opportunity Award provides an award amount as defined in §301 for full-time attendance at an eligible college or university for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:5002, or LAC 28:IV.503.D, 509.C, or 701.E.1.b. Attending a qualified summer session for which a TOPS Award is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA.

2.a. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an award amount as defined in §301 for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:5002, or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an award amount as defined in §301 for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than

semesters or quarters, except as provided by R.S. 17:5002, or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 Academic Year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (College), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive \$400 per semester or \$800 per academic year for other educational expenses and those students with the Honors Award shall receive \$800 per semester or \$1,600 per academic year for other educational expenses. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this paragraph, the amounts stipulated herein will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. in an academic program receive an amount equal to the *weighted average* award amount, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (college). The stipend will be paid for each qualified summer session, semester, quarter, or equivalent unit for which a TOPS Award is paid. Attending a qualified summer session for which a TOPS Award is paid will count toward the eight semester limit for TOPS;

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the average award amount (TOPS-Tech), as defined in §301, plus any

applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS). The stipend will be paid for each qualified summer session, semester, quarter, term or equivalent unit for which a TOPS Award is paid. Attending a qualified summer session for which a TOPS Award is paid will count toward the eight-semester limit for TOPS.

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS Award. Any balance of the TOPS Award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the cost of attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS opportunity or performance recipients, respectively.

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship Program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS opportunity or performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.7 and 8. If a student satisfies the applicable requirements of §705.A.7 and 8 no later than the end of the 2000 Spring Semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.7 and 8.

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of the TOPS Performance Award.

10. Award amounts shall be credited to a student's account with the institution and shall be used consistent with the institution's policy, and as directed by the student, to pay for those educational expenses included in the cost of attendance.

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows:

a. students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be charged to the student by the school with the highest award amount, as defined in §301, among those at which the student is simultaneously enrolled;

b. students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the weighted average highest award

amount paid at those schools at which the student is simultaneously enrolled, as defined in §301;

c. students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) in an academic program shall receive a total amount not to exceed the amount that would be paid at the public school with the highest award amount paid at those schools at which the student is simultaneously enrolled or the weighted average award amount for the enrolled LAICU school, whichever amount is greater.

F. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the board to be eligible for a Performance Award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an Opportunity Award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the board to be eligible for an Honors Award, but who chose either by submission of a completed Award Confirmation Form or by not sending in a completed Award Confirmation Form to receive an Opportunity Award and was awarded an Opportunity Award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a honors award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR

35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015), LR 44:

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS Award, will continue to satisfy the citizenship requirements for a TOPS Award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS Award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (college). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the U.S. Citizenship and Immigration Services (USCIS) and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

b. for students graduating in academic years (high school) 2002-2003 through 2017-2018, be a United States citizen or be a permanent resident as defined by the U.S. Citizenship and Immigration Services (USCIS) and be eligible to apply for United States citizenship;

c. for students graduating in academic years (high school) 2018-2019 and later, be a United States citizen or an eligible noncitizen as defined in §301.

2. be a resident of Louisiana, as defined in §301; and

3. submit the completed free application for federal student aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline defined in §503 or §505; and

4. initially apply and enroll as a *first-time freshman* as defined in §301, unless granted an exception for cause by the board, in an *eligible college or university* defined in §301; and

a. if graduating from an eligible Louisiana public or BESE approved nonpublic high school or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than

the semester, quarter or term, excluding summer semesters or sessions immediately following the one-year anniversary of the student's separation from active duty service, including all consecutive periods of reenlistment. Reenlistment at any time during the student's first enlistment shall be considered to be on or prior to the fifth anniversary of the date that the student graduated from high school; or

c. if the student is eligible under the provisions of §703.A.5.d or e, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completes the home study program, which is deemed to be May 31; or

d. if the student is eligible under the provisions of §703.A.5.d or e, and joins the United States Armed Forces within one year of completion of the 12th grade of an approved home study program, enroll not later than the semester, quarter or term, excluding summer semesters or sessions immediately following the one-year anniversary of the student's separation from active duty service, including all consecutive periods of reenlistment. Reenlistment at any time during the student's first enlistment shall be considered to be on or prior to the fifth anniversary of the date that the student graduated from high school; or

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

f. high school graduates of 1997 and 1998 who are otherwise eligible applicants attending ineligible schools for the 1998-99 academic year, may request a waiver from the board to enroll in an eligible school and accept the award no later than the 1999 fall semester by establishing to the satisfaction of the board that his/her failure to accept the award for the 1998-99 academic year was due to circumstances which could not be changed without the student or his family experiencing a significant, negative financial impact or which establish that it was not otherwise feasible to enroll in an eligible school due to the timing of the notification to the student of his/her eligibility for a TOPS Award. To apply for a waiver from the board, the student must submit a written request addressed to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and submit documentation which clearly establishes the hardship which would have resulted had the student not attended the out-of-state college or university;

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by §503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the academic year (TOPS) in

which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B;

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). for students graduating in academic year (high school) 2001-2002 and prior, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education (BESE); or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

(b). for students graduating in academic year (high school) 2002-2003 through 2003-2004, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved

by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education (BESE); or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(c). for students graduating in academic year (high school) 2004-2005 through 2005-2006, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III

Units	Course
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Trigonometry*, Calculus or comparable Advanced Mathematics *Trigonometry cannot be used to fulfill this requirement for students graduating in Academic Year (High School) 2005-2006 and thereafter
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(d). for students graduating in academic year (high school) 2006-2007, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III

Units	Course
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Trigonometry*, Calculus or comparable Advanced Mathematics *Trigonometry cannot be used to fulfill this requirement for students graduating in Academic Year (High School) 2005-2006 and thereafter
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Database Design and Programming (1/2 or 1 credit) Database Programming with PL/SQL (1/2 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Digital Media I (1/2 or 1 credit) Digital Media II (1/2 or 1 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Java Programming (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(e). beginning with the graduates of academic year (high school) 2007-2008 through 2012-13, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	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; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among the following math subjects: Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Integrated Mathematics III or the following science subjects: Biology II, Chemistry II, Physics or Physics II
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Database Design and Programming (1/2 or 1 credit) Database Programming with PL/SQL (1/2 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Digital Media I (1/2 or 1 credit) Digital Media II (1/2 or 1 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Java Programming (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

(f). beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	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)
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course; or substitute one unit of drafting)
2	Foreign Language, both units in the same language

(g). beginning with the graduates of academic year (high school) 2017-2018, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
Science - 4 Units	
1	Biology I
1	Chemistry I

Units	Course
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies - 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics
Foreign Language - 2 Units	
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB
Art - 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a). For students graduating in academic year (high school) 2007-2008 and prior, 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	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics 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
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), 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 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
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math - Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math -Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(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
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
World Geography	AP Human Geography
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)(i). For students graduating in academic year (high school) 2010-2011 through academic year (high school) 2016-17, 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
World Geography	AP Human Geography
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	

(ii). For students graduating in academic year (high school) 2013-2014 only, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, in addition to the equivalent courses identified

in §703.A.5.(a).ii.(d)(i) above, the following course shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
World History, Western Civilization, World Geography or History of Religion	Law Studies

(iii). For students graduating in academic years (high school) 2013-2014 through 2016-2017, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, in addition to the equivalent courses identified in §703.A.5.a.ii.(d)(i) above, the following course shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Algebra III; Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A

(e). For students graduating in academic year (high school) 2017-2018 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(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Biology II	Human Anatomy and Physiology
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology

(ii). International Baccalaureate® Courses

Core Curriculum Course(s)	Equivalent (Substitute) Course
Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB	Mandarin Chinese I, II, III, IV Hindi I, II, III, IV Portuguese I, II, III, IV Vietnamese I, II, III, IV
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et seq. as implemented in state Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the board and BESE to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV

TOPS Core Course	Gifted and Talented
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
English IV	English Composition I	CENL 1013
	English Composition II	CENL 1023
	British Literature I	CENL 2103
	British Literature II	CENL 2113
	Major British Writers	CENL 2123
	World Literature I	CENL 2203
	World Literature II	CENL 2213
	Major World Writers	CENL 2223
	Introduction to Fiction	CENL 2303
	Introduction to Literature	CENL 2323
Introduction to Poetry and/or Drama	CENL 2313	
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts	CART 1013
	Introduction to Visual Arts	CART 1023
	Dance Appreciation Music Appreciation	CDNC 1013 CMUS 1013
French	Elementary French I	CFRN 1013/1014
	Elementary French II	CFRN 1023/1024
	Intermediate French I	CFRN 2013/2014
	Intermediate French II	CFRN 2023
German	Elementary German I	CGRM 1013/1014
	Elementary German II	CGRM 1023/1024
	Intermediate German I	CGRM 2013
	Intermediate German II	CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I	CLTN 1013/1014
	Elementary Latin II	CLTN 1023/1024
	Intermediate Latin I Intermediate Latin II	CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based)	CPHY 2113
	Physics I (Lecture and Lab)	CPHY 2114
	Physics I (Calculus Based)	CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I	CSPN 1013/1014
	Elementary Spanish II	CSPN 1023/1024
	Intermediate Spanish I Intermediate Spanish II	CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II	CTHE 2103/2113
	Introduction to Theatre	CTHE 1013
US Government or Civics	Introduction to American Government	CPOL 2013
	Introduction to State and Local Government	CPOL 2113
	Introduction to Comparative Government	CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

iii.(a). Through academic year (high school) 2011-2012, for purposes of satisfying the requirements of §703.A.5.a.i above, in addition to the courses identified in §703.A.5.a.ii, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the Louisiana School for Math, Science and the Arts.

Core Curriculum Course	Equivalent (Substitute) Course
English III	EN 210 Composition/Major Themes in Literature (1 unit)
English IV	Any 2 of the following 1/2 unit courses: EN 311 Readings in Literature (at least one 311 course is a requirement) EN 311A American Literature EN 311B British Literature EN 302 Studies in the English Language EN 304 Topics in American and British Literature EN 312 Studies in Poetry EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author— Shakespeare EN 422 Studies in a Major Author— Faulkner IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
Algebra I (one unit)	Any combination of advanced math courses which equal 1 unit of course credit that are certified by the school to be equivalent of Algebra I
Algebra II (one unit)	Any combination of advanced math courses which equal 1 unit of course credit that are certified by the school to be equivalent of Algebra II: MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (1/2 unit) and 1/2 unit of MA 203 Trigonometry
Physics	PH 110L Conceptual Physics (1 unit), or PH 210L General Physics (1 unit), or PH 250L Advanced Placement Physics (1 unit), or PH 310L Physics with Calculus
Biology II	BI 210L Advanced Placement Biology (1 unit), or BI 231L Microbiology (1/2 unit), and BI 241 Molecular and Cellular Biology (1/2 unit)
Civics (1/2 unit) and Free Enterprise (1/2 unit)	AH 243 American Government and Politics (1/2 unit), and SS 113 Economics (1/2 unit)
Western Civilization	EH 121 Ancient and Medieval History (1/2 unit) and EH 122 Modern History (1/2 unit)
*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	

(b). Beginning with the academic year (high school) 2011-2012, for purposes of satisfying the requirements of §703.A.5.a.i above, in addition to the courses identified in §703.A.5.a.ii, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the Louisiana School for Math, Science and the Arts.

Core Curriculum Course	Equivalent (Substitute) Course
English II	EN 110 Introduction to Writing and Literature (1 unit)
English III	EN 210 Composition/ Literature (1 unit)
English III	1/2 unit EN 311A and 1/2 unit from any of the following 1/2 unit courses: EN 302 Studies in the English Language EN 304 Topics in American and British Lit EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author— Shakespeare EN 422 Studies in a Major Author— Faulkner IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
English IV	1/2 unit EN 311B or EN 311W and 1/2 unit from any of the following 1/2 unit courses: EN 302 Studies in the English Language EN 304 Topics in American and British Lit EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author— Shakespeare EN 422 Studies in a Major Author— Faulkner IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
Advanced Math	Any combination of advanced math courses which equal 1 unit of course credit that are certified by the school to be equivalent of Advanced Math
Algebra I (one unit)	Any combination of advanced math courses which equal 1 unit of course credit that are certified by the school to be equivalent of Algebra I

Core Curriculum Course	Equivalent (Substitute) Course
Algebra II (one unit)	Any combination of advanced math courses which equal 1 unit of course credit that are certified by the school to be equivalent of Algebra II: MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (1/2 unit) and 1/2 unit of MA 203 Trigonometry
Biology II	Any combination of 1/2 unit Biology Lab science courses which equal 1 unit of course credit that are certified by the school to be equivalent of Biology II: BI 210L Cells and Genetics and BI 202L Evolution and Biodiversity (1 unit combined), or 1 unit from the following 1/2 unit courses: BI 231L Microbiology BI 253L Botany BI 246L Ecology
Chemistry II	Any combination of 1/2 unit Chemistry lab science courses which equal 1 unit of course credit that are certified by the school to be the equivalent of Chemistry II: CH 201L and CH 202L (1 unit combined) or 1 unit from the following 1/2 unit courses: CH 313L Analytical Chemistry, CH 314L Polymer Chemistry
Physics I	PH 101L and PH 102L Accelerated Physics I (1 unit combined), or PH 201L and PH 202L Accelerated Physics II (1 unit combined)
Physics II	Any combination of 1/2 unit Physics lab science courses which equal 1 unit of course credit that are certified by the school to be the equivalent of Physics II, or PH 301L and PH 302L (1 unit combined) or 1 unit from the following 1/2 unit courses: PH 203L Intro to Astronomy; PH 303L Observational Astronomy and Astrophotography PH 305L Electronics PH 306L Astrophysics
Civics (1/2 unit) and Free Enterprise (1/2 unit)	AH 243 American Government and Politics (1/2 unit) and SS 113 Economics (1/2 unit)
Western Civilization	EH 121 Ancient and Medieval History (1/2 unit) and EH 122 Modern History (1/2 unit)
Advanced Social Studies	Any combination of history courses certified by the school to be the equivalent of one unit of World History, World Geography, Western Civilization, AP European History: 1 unit of credit from the following 1/2 unit courses: EH 231 History of Tudor-Stuart England EH 232 History of Modern Britain EH 244A European Intellectual History WH 244 Selected Topics in World History

iv. Beginning with academic year (high school) 2013-2014, for purposes of satisfying the requirements of §703.A.5.a.i above, in addition to the courses identified in §703.A.5.a.ii, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the New Orleans Center for Creative Arts.

Core Curriculum Course	Equivalent (Substitute) Course
English I	NOCCA Integrated English I
English II	NOCCA Integrated English II
English III	NOCCA Integrated English III
English IV	NOCCA Integrated English IV
Algebra I	NOCCA Integrated Mathematics I
Geometry	NOCCA Integrated Mathematics II
Algebra II	NOCCA Integrated Mathematics III
Advanced Math–Functions and Statistics	NOCCA Integrated Mathematics IV
Physical Science	NOCCA Integrated Science I
Biology	NOCCA Integrated Science II
Environmental Science	NOCCA Integrated Science III
Chemistry	NOCCA Integrated Science IV
World Geography	NOCCA Integrated History I
Civics	NOCCA Integrated History III
World History	NOCCA Integrated History II
U. S. History	NOCCA Integrated History IV

b. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.3 and have completed the core curriculum defined in §703.A.5.a.i, unless the following exceptions apply:

i. for students in graduating classes prior to the year 2004, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for a *disabled student* or an *exceptional child*, as defined in §301, who have met the criteria set forth in §2115, one or more core units are waived; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (see §1701.A.4); or

d.i. successfully complete at the 12th grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the 11th and 12th grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided the board with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; or

e. graduate from a high school defined in §1701.A.5 or successfully complete at the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories; or

f.i. for students graduating in academic years (high school) 2000-2001 and 2001-2002, successfully complete a minimum of 10 units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3 and have completed the core curriculum defined in §703.A.5.a.i; or

ii. for students graduating academic year (high school) 2002-2003 through 2005-2006, successfully complete a minimum of 10 units in honors curriculum courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

g. beginning with the 2004-2005 award year, eligible non-graduates who meet the following criteria:

i.(a). through the 2017-2018 academic year high school, be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship;

(b). beginning the 2018-2019 academic year (high school) and later, be a United States citizen or an eligible noncitizen as defined in §301;

ii. meet the requirements of §703.A.3, above; and

iii. actually reside in Louisiana for at least two years prior to the student's first enrollment in an eligible college or university; and

iv. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a score that is at least in the superior range on the *Wechsler Intelligence Scale for Children (Third Edition)* or revised version of such instrument; and

v. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a composite score that is at least at the ninetieth percentile at the 12th grade level in the reading, mathematics, and written language portions of the *Wechsler Individual Achievement Test (Second Edition)* or revised version of such test; and

vi. prior to enrolling for the first time in an eligible college or university, the student's score on the ACT must meet the requirements of §703.A.6.a., as specified for the respective award, or have an equivalent score on the scholastic aptitude test; and

vii. before the student's 19th birthday:

(a). enrolls in an eligible college or university and successfully earns 12 hours of course credits; and

(b). enrolls in an eligible college or university as a full-time student to pursue an academic undergraduate degree at the baccalaureate level; and

viii. after meeting all the requirements in §703.A.5.g.i. through vi, the student will qualify for a TOPS Award;

6. have achieved an ACT score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g:

i. the state's reported prior year ACT composite average, truncated to a whole number, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average truncated to a whole number plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average truncated to a whole number plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a). the state's reported prior year average truncated to a whole number plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the academic year (high

school) 2004-2005 and through the academic year (high school) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average plus 2 points, rounded, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. agree that awards will be used exclusively for educational expenses;

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.a and b in academic year (high school) 2020-2021 must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.25 for the Performance Award; or
- c. a 3.50 for the Honors Award.

4. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top five percent of the 1997-98 high school graduating class, as defined in §1703.B.4, in lieu of completing the core curriculum.

D. Students who have qualified academically for more than one of the TOPS Awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria.

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide the board a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year. High school graduates of 1996-97 and 1997-98 who meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and who have not been discharged with an undesirable, bad conduct or dishonorable discharge must meet the foreign language requirement no

later than one year after the date of separation from active duty.

F. In the event that a student applicant was determined ineligible by the board for an award under this program or for a higher level award than that initially offered the student and such determination was based upon data that was subsequently found to be in error, then the student's eligibility shall be reevaluated based upon the corrected data and, if found eligible, the student shall be offered the award for which he qualifies. The award shall begin with the academic year during which the reevaluation occurred and eligibility first established. The requirement that a student be a first-time freshman shall be waived for those students who are determined eligible under these circumstances subsequent to the commencement of their post-secondary education.

G. Early Admission to College

1. A student who enters an eligible college or university under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions.

a. The college early admissions program is one that meets the requirements of the Louisiana Department of Education as set forth in the latest edition of Bulletin 741.

b. The student has satisfied all core curriculum requirements not completed in high school by making passing scores on equivalent college courses.

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to the board by the high school in the same manner as that of other high school graduates.

d. The student's core curriculum requirements are completed no later than the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

2. A student who enters an eligible college or university early admissions program prior to graduation from high school shall be considered a *first-time freshman*, as defined in §301, not earlier than the first semester following the academic year (high school) in which the student graduated. A student who enters an early admissions program will remain eligible for a TOPS Award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student actually graduated.

H. Returning Students

1. A *returning student*, as defined in §301, is eligible for a TOPS Award if:

a. he submits an application to return from an out-of-state college that includes:

i. the name of the Louisiana school in which he has enrolled or will enroll; and

ii. his official transcripts from all out-of-state colleges and universities attended; and

b. he met all the requirements to maintain his award that would have been applicable had the student enrolled in an eligible college or university during the time the student was enrolled in an out-of-state college or university; and

c. he enrolled in an eligible college or university no later than the next semester or term, excluding summer sessions and intersessions, immediately following the last semester he was enrolled in the out-of-state college or university.

2. A returning student who fails to enroll by the deadline established in §703.A.4 or to maintain full-time enrollment or to earn 24 hours during an academic year (TOPS) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS award unless granted an exception in accordance with §2103.

3. The period of eligibility of a returning student shall be reduced by each semester or term the student was enrolled in an out-of-state college or university.

I. Deaf and Hard-of-Hearing Students. Any student who graduates from high school or completes an approved home study program during and after academic year (high school) 2004-2005 and who is eligible for a TOPS Opportunity, Performance, or Honors Award may use the award at an out-of-state college or university if all the following conditions are met:

1. the college or university is nonpublic; and
2. the college or university is accredited by a regional accrediting organization recognized by the United States Department of Education; and
3. all programs and services at the college or university are specifically designed to accommodate deaf and hard-of-hearing students; and
4. deaf and hard-of-hearing students comprise the majority of students enrolled at the college or university at the undergraduate level; and
5. the award recipient meets the admission requirements of the college or university that are applicable to deaf and hard-of-hearing students; and
6. the award recipient must enroll as first-time freshman as defined in §301, unless granted an exception for cause by the board, in the out-of-state college or university by the deadlines established in §703.A.4; and
7. the award recipient must meet the requirements of §705 to continue receiving the TOPS Opportunity, Performance or Honors Awards; and
8. the college or university complies with the requirements for postsecondary institutions provided in §1903.

J. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) must meet all of the requirements of §703.A-1.8 above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative

high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2004-2005 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during the 2005-2006, 2006-2007, 2007-2008, or 2008-2009 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §703.J.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §703.J.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. a student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

3. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §703.A-I.8 above, except as follows.

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

4. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana distance diploma from the board of Elementary and Secondary Education must meet all of the requirements of §703.A-I.8 above, except as follows.

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:5001 et seq.

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 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 44:

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds, except as provided in §701.E.1.b, §701.E.2.b and §701.E.3.b; and

2. submit the renewal FAFSA in accordance with §505.F; and

3. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

4. agree that awards will be used exclusively for educational expenses; and

5. continue to enroll and accept the TOPS Award as a full-time undergraduate student, professional or graduate student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by the board; and

6. minimum academic progress:

a.i. in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by the board, failure

to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

ii. beginning in the 2008-2009 and through the 2010-2011 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (TOPS), including any hours earned during an intersession ending during the academic year or immediately following the spring term. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or intersessions that do not immediately follow the spring term or by advanced placement course credits. Unless granted an exception for cause by the board, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

iii. beginning in the 2011-2012 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by the board, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by the board, failure to earn 24 hours during the academic year (TOPS) will result in permanent cancellation of the recipient's eligibility; or

c. in an academic graduate or professional program at an eligible college or university, by the end of each academic year (TOPS), earn at least the total college credit hours required by the college or university for full-time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during

any intersession and/or summer session ending before the following fall semester or quarter). These hours shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by the board, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

d. in an eligible cosmetology or proprietary school, meet the federal grant aid steady academic progress requirement at that school; and

7. maintain *steady academic progress* as defined in §301; and

8.a. Through the 2013-14 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a TOPS cumulative college grade point average on a 4.00 maximum scale of at least:

i. a 2.30 with the completion of 24 but less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

ii. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

b. beginning with the 2014-15 academic year (TOPS), maintain at an eligible college or university, by the end of the academic year, a TOPS cumulative college grade point average on a 4.00 maximum scale of at least:

i. a 2.30 with the completion of 24 but less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

ii. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

c. the provisions of §705.A.8.b shall not apply during the 2014-2015 academic year to students who met the requirements of §705.A.7 at the end of the spring semester of 2015, but who did not meet the requirements of §705.A.8.b at the end of the 2014-2015 academic year;

d. beginning with the 2015-16 academic year (TOPS), maintain at an eligible college or university, by the end of the academic year, a TOPS cumulative college grade point average (Opportunity, Performance, Honors) on a 4.00 maximum scale of at least:

i. a 2.30 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled in an academic program for the last semester attended during the academic year; or

ii. a 2.50 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for the last semester attended during the academic year; or

iii. a 2.50 with 48 or more earned credit hours for continuing receipt of an Opportunity Award, if enrolled in any program of study for the last semester attended during the academic year; and

e. a 3.00 for continuing receipt of either a Performance or Honors Award; or

f. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; or

g. meet the federal grant aid steady academic progress requirement at that school, if enrolled in an eligible cosmetology or proprietary school; and

B.1. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, d, f, or g may have their TOPS Awards reinstated upon regaining “steady academic progress” (see §301) and/or attainment of the required TOPS cumulative grade point average, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

2. If the two-year period is interrupted due to a student's active duty in the United States Armed Forces, the two-year period will be extended for a length of time equal to the student's active duty service.

3. Students who fail to meet the requirements of §705.A.8.e, shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall be eligible to receive the award amount for the Opportunity Award if they meet the continuation requirements of §705.A.8.a, b, d, f, or g.

4.a. A student shall have one semester or quarter after the 2015-16 academic year (TOPS) for which the TOPS Award will be paid to meet the requirements of §705.A.8.d if the student:

i. failed to meet the requirements listed in §705.A.8.d solely because the calculation of the TOPS cumulative grade point average (Opportunity, Performance, Honors) at the end of the 2015- 2016 academic year (TOPS) includes both hours and grades for courses taken before the 2015-16 academic year (TOPS) in both academic and technical courses of study; and

ii. was a high school graduate or home study completer who enrolled for the first time as a full-time student in an eligible postsecondary institution before the 2015-16 academic year (TOPS); and

iii. not suspended after the 2014-15 academic year (TOPS).

b. The TOPS award of a student who meets the requirements of §705.B.4.a shall not be suspended unless the student fails to meet the requirements of §705.A.8.d by the end of the fall semester or quarter of 2016 in which case:

i. the student's TOPS award shall be suspended effective at the end of the fall semester or quarter of 2016; and

ii. the provisions of §705.B.1 and 2 shall apply.

c. If a student does not enroll full time for the fall semester or quarter of 2016 and any subsequent consecutive semesters or quarters and is granted an exception for all of those semesters or quarters, the provisions of §705.B.4.b shall be extended to the end of the next semester or quarter during which the student enrolls full time and for which the student's TOPS award is paid.

C. In the event the board determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or court ordered custodian or incorrect certification from the student's high

school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the board will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the board determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or court ordered custodian, the board may seek reimbursement from the student, the student's parent(s) or court ordered custodian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or court ordered custodian, then the board shall refer the case to the attorney general for investigation and prosecution. If a student or the student's parent(s) or court ordered custodian is suspected of having intentionally misrepresented the facts which were provided to the board and used by it to determine the eligibility of the student for the program and the board has referred the case to the attorney general for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

D. It is the student's responsibility to ensure that all requirements necessary to maintain award eligibility are completed. The Office of Student Financial Assistance shall only consider the official report of grades and hours earned which are received from the school attended. Students should be aware that individual school policies may affect the reporting of grade point average and hours earned for the academic year and accordingly, should become familiar with these policies.

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first time as a full-time student in an eligible out-of-state college or university during the 2005-2006 academic year (TOPS) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a

one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005:

i. was enrolled in one of the following institutions:

- (a). Delgado Community College;
- (b). Dillard University;
- (c). Louisiana State University Health Sciences Center at New Orleans;

(e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;

- (f). Loyola University;
- (g). New Orleans Baptist Theological Seminary;
- (h). Nunez Community College;
- (i). Our Lady of Holy Cross College;
- (j). St. Joseph Seminary College;
- (k). Southern University at New Orleans;
- (l). Tulane University;
- (m). University of New Orleans;
- (n). Xavier University; or

ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or

b. a student who on September 20, 2005:

i. was enrolled in one of the following institutions:

- (a). McNeese State University;
- (b). Sowela Technical Community College; or

ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, home of record for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

F.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's

completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1, and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:664 (April 2015), LR 42:47 (January 2016), LR 44:

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. Legislative Authority. The TOPS-Tech Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose

1. For students graduating through the 2015-2016 academic year (high school), the TOPS-Tech Award is a merit based scholarship program for Louisiana residents pursuing skill, occupational or technical training at eligible colleges and universities that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-Tech is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

2. Beginning with students graduating in the 2016-2017 academic year (high school), the TOPS-Tech Award is a workforce scholarship program for Louisiana residents who enroll in an eligible college or university on a full-time basis in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Louisiana Board of Regents (the board) and the Louisiana Workforce Investment Council.

C. TOPS-Tech shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-Tech provides an award as follows:

1. For any student enrolled in a TOPS Tech eligible program of study at an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher, the amount shall equal the actual cost of tuition or the maximum published award amount, whichever is less.

2. For any student enrolled in a TOPS Tech eligible program of study at an eligible college or university other than as provided for in Paragraph D.1 above, the amount shall be the average award amount (TOPS-Tech) as defined in §301.

3. Beginning with the 2010-2011 academic year (TOPS), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS-Tech Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall

receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per academic year (TOPS) to be applied toward the cost of books and other instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:666 (April 2015), LR 41:2596 (December 2015), LR 44:

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-Tech Award, the student applicant must meet the following criteria:

1. be a United States citizen or an eligible noncitizen as defined in §301.
2. be a resident of Louisiana, as defined in §301; and
3. submit the completed initial free application for federal student aid (FAFSA) or on-line application in accordance with §501 by the applicable state aid deadline in accordance with the applicable requirements of §501 or §505; and
 4. initially apply and enroll as a first-time student as defined in §301, unless granted an exception for cause by the board, in an eligible post-secondary college or university defined in §301; and
 - a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or
 - b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, quarter or term excluding summer semesters or sessions, immediately following the one-year anniversary of the student's separation from active duty service, including all consecutive periods of reenlistment. Reenlistment at any time during the student's first enlistment shall be considered to be on or prior to the fifth anniversary of the date that the student graduated from high school; or
 - c. if the student is eligible under the provisions of §803.A.5.d, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completed the home study program, which is deemed to be May 31; or
 - d. if the student is eligible under the provisions of §803.A.5.d and has joined and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31, enroll not later than the semester, quarter or term, excluding summer semesters or sessions, immediately following the one-year anniversary of the student's separation from active duty service, including all consecutive periods of reenlistment. Reenlistment at any time during the student's first enlistment shall be considered

to be on or prior to the fifth anniversary of the date that the student graduated from high school; and

5. graduate from:
 - a. an eligible public or nonpublic high school or non-Louisiana high school defined in §1701.A.1, 2 and 3; or
 - b. an out-of-state high school defined in §1701.A.4; or
 - c. an out of country high school defined in §1701.A.5; or
 - d.i. successfully complete at the 12th grade level a home study program approved by BESE; or
 - ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the 11th and 12th grade levels of a home study program approved by BESE; and
 - iii. if having previously attended an eligible high school defined in §1701.A.1, 2, 3, 4, or 5, has provided the board with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;
6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation:
 - a. have successfully completed one of the following core curriculums:
 - i. high school course work constituting the TOPS core curriculum for the Opportunity, Performance and Honors Awards as defined in §703.A.5 and documented on the student's official transcript as approved by the Louisiana Department of Education;
 - ii. for students graduating in the 2015-2016 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
3	Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math - Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States

Core Curriculum—TOPS-Tech Award	
Units	Course
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

iii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	

Core Curriculum—TOPS-Tech Award	
Units	Course
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iv. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and IB (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	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)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

v. for students graduating in the 2013-2014 school year through the 2016-2017 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
Remaining Core Courses Shall Be Selected from One of the Following Options	
Option 1—Total of 17 Units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

b.i. for students graduating in academic year (high school) 2008-2009 and after, for purposes of satisfying the requirements of §803.A.6.a above, 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
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials

ii. for students graduating in academic year (high school) 2018 and after, for purposes of for purposes of satisfying the requirements of §803.A.6.a above, 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
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials
Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math -Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits	Probability and Statistics

c. for students in graduating classes prior to 2004, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

7. have achieved an *ACT score*, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17 or beginning with the 2010-2011 program year (non academic program) in the alternative, have attained a silver level score on the assessments of the ACT WorkKeys system; or

b.i. if qualifying under §803.A.5.b or c and is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301, an ACT composite of at least 20; or

ii. if qualifying under §803.A.5.b is a Louisiana Resident as defined in Subparagraph h of the definition of Louisiana Resident in §301, an ACT composite of at least 19; and

c. if qualifying under §803.A.5.d and successfully completing the 12th grade level a home study program approved by BESE during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009, an ACT composite of at least 20; and

d. if qualifying under §803.A.5.d and successfully completing the 12th grade level a home study program approved by BESE during or after the academic year (high school) 2004-2005 or during the academic year (high school) 2007-2008, an ACT composite of at least 19; and

8. if qualifying under §803.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least 2.50; and

9. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

10. agree that awards will be used exclusively for educational expenses.

B. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) must meet all of the requirements of §803.A above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2004-2005 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during the 2005-2006, 2006-2007, 2007-2008, or 2008-2009 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §803.B.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §803.B.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* shall mean:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. A student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

3. To establish eligibility for a TOPS Tech Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §803.A above, except as follows.

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b above for at least the 12 months prior to September 20, 2005.

4. To establish eligibility for a TOPS Tech Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana Distance Diploma from the Board of Elementary and Secondary Education must meet all of the requirements of §703.A.-I.8 above, except as follows.

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:2597 (December 2015), LR 42:48 (January 2016), LR 44:

§805. Maintaining Eligibility

A. To continue receiving the TOPS-Tech Award, the recipient must meet all of the following criteria:

1. have received the TOPS-Tech Award for not more than two years or the equivalent number of terms and summer sessions, provided that not attending a summer session shall not reduce the number of eligible terms; and, except as provided by §805.C, or unless reduced as required by §503.D;

2. submit the renewal FAFSA in accordance with §505.F; and

3. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

4. agree that awards will be used exclusively for educational expenses; and

5.a. for students graduating through the 2015-2016 academic year (high school), continue to enroll and accept the TOPS-Tech Award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this requirement), unless granted an exception for cause by the board; and

b. for students graduating in the 2016-2017 academic year (high school) and later, continue to enroll in an eligible college or university in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Louisiana Board of Regents and the Louisiana Workforce Investment Council, and maintain an enrolled status throughout the academic year (TOPS) (enrollment in a summer session is optional and is not required to meet this

requirement), unless granted an exception for cause by the board;

6. has maintained steady academic progress as defined in §301; and

7.a. through the 2013-14 academic year, maintain, by the end of the spring term, a TOPS cumulative college grade point average (TOPS Tech) of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

b. beginning with the 2014-15 academic year, maintain, by the end of the academic year, a TOPS cumulative college grade point average (TOPS Tech) of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS). Unless granted an exception for cause by the board, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school.

B. Students failing to meet the requirements listed in §805.A.7 and 8 may have their TOPS Awards reinstated upon achieving steady academic progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one-year period is interrupted due to a student's active duty in the United States Armed Forces, the one-year period will be extended for a length of time equal to the student's active duty service.

C. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS-Tech payment for that semester or term is received by LOSFA.

D. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those

semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (TOPS) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

2. For the purposes of this Subsection, *displaced student* means:

- a. a student who on August 26, 2005:
 - i. was enrolled in one of the following institutions:
 - (a). Delgado Community College;
 - (b). Dillard University;
 - (c). Louisiana State University Health Sciences Center at New Orleans;
 - (e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;
 - (f). Loyola University;
 - (g). New Orleans Baptist Theological Seminary;
 - (h). Nunez Community College;
 - (i). Our Lady of Holy Cross College;
 - (j). St. Joseph Seminary College;
 - (k). Southern University at New Orleans;
 - (l). Tulane University;
 - (m). University of New Orleans;
 - (n). Xavier University; or
 - ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or
- b. a student who on September 20, 2005:
 - i. was enrolled in one of the following institutions:
 - (a). McNeese State University;
 - (b). Sowela Technical Community College; or
 - ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, *home of record* for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

E. A student who successfully completes a vocational or technical certificate or diploma program or a non-academic degree program without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in another program of study leading to a vocational or technical certificate or diploma or to a non-academic degree no later than the fall semester

immediately following the first anniversary of the student's completion of a vocational or technical certificate or diploma program or of a non-academic degree program and has met the requirements for continued eligibility set forth in §805.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:2598 (December 2015), LR 42:49 (January 2016), LR 44:

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1.A(3) and (4), B, C, and D, and 3042.2.A and B; reenacted R.S. 17:3042.1.A(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Taylor Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as defined by the U. S. Department of Education;
2. was first funded for the 1997-98 award year;
3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of up to \$6,000 per award year for mathematics and chemistry majors.
2. Loans are made in the amount of up to \$4,000 per year for teacher education majors other than those listed in §901.C.1.
3. Recipient may receive a maximum of four years of funding.
4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.
5. Recipients may, in conjunction with the teachers award, receive another TOPS Award.
6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the cost of attendance, any federal loan aid included in the total aid

package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Teacher Award shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1649 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:69 (January 2000), repromulgated LR 27:1856 (November 2001), amended LR 44:

§903. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS Award, will continue to satisfy the citizenship requirements for a TOPS Award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS Award will be suspended until such time as proof of citizenship is provided;

2. be a resident of Louisiana, as defined in §301 for at least two years prior to July 1 of the award year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §501.C and §505.F; and

4. either:

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.5.a.i; and

ii. at the time of high school graduation, have attained a composite score on the ACT Test or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative

undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by the Louisiana Board of Regents (the board) by the deadline specified in §503; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that the award will be used exclusively for educational expenses; and

8. enroll during the fall term at an eligible college or university, as defined in §1901, as a *full-time student*, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001), repromulgated LR 27:1857 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 30:2019 (September 2004), LR 44:

§905. Selection Criteria

A. Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), repromulgated LR 27:1857 (November 2001), amended LR 44:

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards; and

2. by the end of each academic year, earn a total of at least 24 hours college credit during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall not include remedial course work nor hours earned during summer sessions or intersessions or by advanced placement course credits (see also §705.D); and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. maintain steady academic progress as defined in §301; and

5. continue to enroll each subsequent semester or quarter as a full-time student in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level, and maintain an enrolled

status throughout the academic term, unless granted an exception for cause by the board; or

6. enter a program approved by BESE which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. submit the renewal FAFSA in accordance with §505.F;

8. have no criminal convictions, except for misdemeanor traffic violations.

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 and 4, may be reinstated upon attainment of the required GPA and achieving the GPA required for steady academic progress, as defined in §301, provided the period of ineligibility did not exceed two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), repromulgated LR 27:1857 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 30:2020 (September 2004), LR 44:

§909. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program promissory note by completing the form and returning it to the board by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an economically disadvantaged region of the state, as defined by the U.S. Department of Education, teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), repromulgated LR 27:1858 (November 2001), amended LR 44:

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE) approved, provisionally approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by the U.S. Department of Education, one year of teaching will fulfill two years of funding;

3. the first two full semesters of full-time teaching will be applied toward the earliest dated disbursement not

previously paid under §911.C, the second two full semesters the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

C. Discharging the Loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest will accrue on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of entering repayment status until repaid, canceled or fulfilled;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by the board that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies the board that monetary repayment is desired; or

c. six months after the board determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation

1. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

a. upon submission to the board of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

b. upon submission to the board of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR

26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:780 (April 2004), LR 30:1168 (June 2004), LR 44:

Chapter 10. TOPS-Tech Early Start Award

§1001. General Provisions

A. Legislative Authority. The TOPS-Tech Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature and amended by Act 737 of the 2014 Regular Session of the Legislature.

B. Description, History and Purpose. The TOPS-Tech Early Start Award is established as part of the Taylor Opportunity Program for Students (TOPS) to provide grants for Louisiana residents taking a technical or applied course in pursuit of occupational or vocational training while being dually enrolled in a state public high school at the 11th and 12th grade levels and at a Louisiana public or nonpublic postsecondary institution or in an approved training program that offers an occupational or vocational education credential in a top demand occupation. The purpose of TOPS-Tech Early Start is to provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a top demand occupation while still in high school.

C. Effective Date. The TOPS-Tech Early Start Award shall be first awarded beginning with the 2005-2006 award year to 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Terms. The TOPS-Tech Early Start Award is limited to six credit hours per semester and 12 credit hours each academic year (college). TOPS-Tech Early Start is not payable for summer semesters or sessions.

E. Award Amount. The TOPS-Tech Early Start Award provides a payment not to exceed \$300 for up to six credit hours each semester or \$600 each academic year (college) at a rate of \$50 per credit hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3109 (December 2005), amended LR 35:231 (February 2009), LR 41:374 (February 2015), LR 44:

§1003. Definitions

Approved Training Program—a program provided by an approved training provider of technical and/or applied courses toward a credential in a top demand occupation.

Approved Training Provider—a Louisiana provider recognized by the Louisiana Workforce Commission and approved by the state Board of Elementary and Secondary Education to provide technical and/or applied courses toward a credential in a top demand occupation.

Credential—industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council.

Technical or Applied Course—a course required for a credential in a top demand occupation.

Top Demand Occupation—an occupation identified by the Occupation Forecasting Conference as being in top demand in Louisiana and recognized by the State Industry-Based Certification Leadership Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:375 (February 2015), amended LR 41:668 (April 2105), LR 44:

§1005. Establishing Eligibility

A. To establish eligibility for the TOPS-Tech Early Start Award, the student applicant must meet all of the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;

2. have prepared a five-year education and career plan, including a sequence of related courses with a career focus as provided by the high school career option subchapter in R.S. 17:183.2 et seq.;

3. have a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale;

4. score at least 15 on the English subsection and 15 on the mathematics subsection of the ACT PLAN assessment or a successor assessment administered as part of Louisiana's educational planning and assessment system or the ACT or an equivalent concordant value of the SAT or have attained a silver level score on the assessments of the ACT WorkKeys system;

5. enroll in a course in an industry-based occupational or vocational education credential program in a top demand occupation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:375 (February 2015), LR 41:2599 (December 2015), LR 44:

§1007. Maintaining Eligibility

A. To continue receiving the TOPS-Tech Early Start Award, the recipient must meet all of the following criteria:

1. be a student in good standing in a Louisiana public high school; and

2. maintain a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale; and

3. continue to pursue one or more courses leading to a credential in a top demand occupation; and

4. be a student in good standing while enrolled in a Louisiana public or nonpublic postsecondary education institution or an approved training program; and

5. maintain steady academic progress as defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:375 (February 2015), LR 41:2599 (December 2015), LR 44:

§1009. Responsibilities of LOSFA

A. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

B. LOSFA shall conduct audits of participating Louisiana public and nonpublic postsecondary institutions, approved training providers, and high schools to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

D. In the event that the funds appropriated for the TOPS-Tech Early Start Award are insufficient to pay all awards for all eligible students, LOSFA shall develop and submit to the Louisiana Board of Regents (the board) a plan to limit the awards to the amount appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:2029 (September 2010), LR 41:375 (February 2015), LR 44:

§1011. Responsibilities of High Schools

A. The high school shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is eligible to participate in the TOPS-Tech Early Start program and approve or disapprove the student's participation in the program.

C. The high school's approval of a student's participation in the program by signing the student's application certifies that the student meets the eligibility criteria provided in §1005.A.1-5, and, if applicable, §1007.A.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:2029 (September 2010), LR 41:375 (February 2015), LR 44:

§1013. Responsibilities of Louisiana Public and Nonpublic Postsecondary Institutions and Approved Training Providers

A. Each Louisiana public and nonpublic postsecondary institution and each approved training provider that offers an industry based occupational or vocational education credential in a top demand occupation shall:

1. determine whether an eligible student has applied for enrollment in a course at that institution or provider to pursue an industry based occupational or vocational education credential in a top demand occupation in accordance with §1903.C.5;

2. determine whether the student has met the requirements to maintain an award as required by §1007.A.3-5;

3. submit bills to LOSFA in accordance with §1903.B for each eligible student so enrolled; and

4. comply with the reporting and records retention requirements of §1903.A and E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 41:376 (February 2015), LR 44:

§1015. Responsibilities of the Workforce Investment Council

A. The Workforce Investment Council shall define, maintain, and make available to LOSFA and to public and

nonpublic postsecondary institutions and to Louisiana training providers a list of industry based occupational or vocational education credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 41:376 (February 2015), LR 44:

§1017. Responsibilities of the State Board of Elementary and Secondary Education (BESE)

A. BESE shall determine which training providers are approved to provide courses each academic year for the TOPS-Tech Early Start Award in accordance with R.S. 17:5081.

B. BESE shall notify LOSFA of the names and addresses for the approved training providers no later than March 1 for the fall of that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5081.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:376 (February 2015), amended LR 44:

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;
3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies. Through the 2009-2010 academic year, the program provided competitively awarded funds of \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife, with a requirement that the awardee repay the funds if the student did not earn a degree in one of these fields. Beginning with the 2010-2011 academic year, the program offers competitively awarded scholarships of \$2,000 per academic year for undergraduate students and \$3,000 per academic year for graduate students.

2.a. Through the 2009-2010 academic year, students accepting the Rockefeller State Wildlife Scholarship agreed:

i. to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees; and

ii. if the student failed or fails to successfully complete an eligible course of study, to repay the funds with interest as per the agreement made between the Louisiana Board of Regents (the board) and the student.

b. Beginning with the 2010-2011 academic year, the Rockefeller State Wildlife Scholarship Program is a pure scholarship for undergraduate students who have earned at least 60 credit hours and graduate students.

c. Students who received the award during the 2009-2010 academic year who have not yet earned 60 hours of academic credit may receive the award as a scholarship beginning with the 2010-2011 academic year if the requirements to maintain eligibility have been met.

C. Award Amounts

1. Through the 2009-2010 academic year:
 - a. the annual award is \$1,000;
 - b. the cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.
2. Beginning with the 2010-2011 academic year and thereafter:
 - a. the annual award is \$2,000 for undergraduate students;
 - b. the annual award is \$3,000 for graduate students;
 - c. the cumulative maximum award is \$12,000 for up to three years of undergraduate and two years of graduate study.

D. Award Disbursements

1. Through the 2009-2010 academic year, the award is disbursed:
 - a. at postsecondary institutions using semesters at the rate of \$500 each fall and spring semester; or
 - b. at postsecondary institutions using terms at the rate of \$333 for the fall and winter term and of \$334 for the spring term.
2. Beginning with the 2010-2011 academic year and thereafter, the award is disbursed:
 - a. at postsecondary institutions using semesters at the rate of:
 - i. \$1,000 each fall and spring semester for undergraduate students; and
 - ii. \$1,500 each fall and spring semester for graduate students; or
 - b. at postsecondary institutions using terms at the rate of:
 - i. \$667 for each fall and winter and of \$666 for the spring term for undergraduates; and
 - ii. \$1,000 for each fall, winter term and spring term for graduates.
3. In the event there are unawarded appropriated funds at the end of the spring semester or term, such funds may be disbursed pro-rata to students who received an award during the preceding academic year and are enrolled full-time during the summer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 34:235 (February 2008), LR 36:2267 (October 2010), LR 44:

§1103. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and
- 3.a. through the 2007-2008 academic year (college), submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, so that it is received by the federal processor by the final deadline set forth in §501.C or §505.F; or

b. beginning with the 2008-2009 academic year (college):

- i. to be eligible for the scholarship for both fall and spring semesters of the academic year (college), submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, so that it is received by the federal processor and by LOSFA by the final deadline set forth in §501.C or §505.F;
- ii. to be eligible for the scholarship, if funds are available, for the spring semester of the academic year (college), submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, so that it is received by the federal processor by the final deadline set forth in §501.C or §505.F; and

4.a. through the 2007-2008 academic year (college), complete and submit such documentary evidence as may be required by LOSFA; or

b. beginning with the 2008-2009 academic year, complete and submit such documentary evidence as may be required by LOSFA so that it is received by LOSFA no later than July 1 preceding the academic year (college) for which the scholarship is sought; and

5.a. beginning with the 2008-2009 academic year:

i. through the 2009-2010 academic year, to be eligible for the award for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than July 1 preceding the fall semester for which the award is sought; or

ii. to be eligible for the award, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than December 1 immediately preceding the spring semester for which the award is sought; and

b. beginning with the 2010-2011 academic year:

i. to be eligible for the scholarship for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than July 1 preceding the fall semester for which the scholarship is sought; or

ii. to be eligible for the scholarship, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than December 1 immediately preceding the spring semester for which the scholarship is sought; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. a. through the 2009-2010 academic year, be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; or

b. for the 2010-2011 academic year and thereafter, be an undergraduate recipient of the award during the 2009-2010 academic year and enrolled full-time or an undergraduate with at least 60 earned hours of college credit and enrolled full-time or graduate student and enrolled full-time at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

8.a. through the 2009-2010 academic year, must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT score of at least 20; or

b. beginning with the 2006-2007 academic year (college) and through the 2009-2010 academic year, must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT score of at least 22; or

c.i. through the 2009-2010 academic year, if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

ii. beginning with the 2010-2011 academic year, the student applicant has earned 60 or more hours of college credit with at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. Through the 2009-2010 academic year, to be a qualified home study completer for the purposes of this Section, the applicant must:

a. successfully complete at the twelfth grade level a home study program approved by BESE; or

b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided the board with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:87 (January 2007), LR 34:235 (February 2008), LR 36:2268 (October 2010), LR 44:

§1105. Selection Criteria

A. Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 44:

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1.a. for recipients first accepting the award through the 2009-2010 academic year, have received the scholarship for not more than seven academic years (five undergraduate and two graduate); or

b. for recipients first accepting the award for the 2010-2011 academic year and thereafter, have received the scholarship for not more than five academic years (three undergraduate and two graduate); and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by the board; and

3. achieve a cumulative grade point average of at least 2.50 as an undergraduate student at the end of each academic year or achieve a cumulative grade point average of at least 3.00 as a graduate student at the end of each academic year; and

4. continue to enroll as a full time student each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by the board; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 31:2215 (September 2005), LR 34:235 (February 2008), LR 36:2268 (October 2010), LR 44:

§1109. Acceptance of Award

A.1. For recipients first accepting the award through the 2009-2010 academic year, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (BOR-Form RS02), by completing the

form and returning it to the board by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

2. For recipients accepting the award for the 2010-2011 academic year and thereafter, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Application, by completing the form and returning it to the board by the specified deadline. The scholarship obligates the recipient to seek a Wildlife, Forestry or Marine Science degree or lose eligibility for future awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 36:2268 (October 2010), LR 44:

§1111. Discharge of Obligation for Recipients First Accepting an Award through the 2009-2010 Academic Year

A. The loan obligation for awards received through the 2009-2010 academic year may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation in an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. interest accrues on the outstanding principal at the rate of eight percent per annum;

2. interest on each disbursement will accrue from the date of entering repayment status until repaid, canceled or fulfilled;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies the board that monetary repayment is desired; or

b. six months after the board determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation

1. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

a. upon submission to the board of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

b. upon submission to the board of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and 56:797 D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 30:780 (April 2004), LR 30:1168 (June 2004), LR 36:2269 (October 2010), LR 44:

Chapter 12. Louisiana GO Grant

§1201. General Provisions

A. Legislative Authority

1.a. In accordance with the requirements of Act 695 of the 2004 Regular Session of the Legislature, the Louisiana Board of Regents (the board) developed the GO Grant Program. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007.

b. Act 655 of the 2010 Regular Session of the Legislature establishes the GO Grant Program in R.S. 17:3046 et seq. The Act provides that the board shall establish the criteria for initial and continuing eligibility, the method for determining the award amount, and other requirements not otherwise provided in the statute. The act further provides that the GO Grant Program shall be administered by the board through the Louisiana Office of Student Financial Assistance (LOSFA).

B. Description and Purpose. The Louisiana GO Grant assists those students who can demonstrate financial need to pay for the cost of postsecondary education. The GO Grant is used to pay a portion of the cost of attendance at an eligible Louisiana institution.

C. Award Amount

1. The minimum and maximum annual award amounts and the lifetime award amount, if any, shall be established by the board on an annual basis and such amounts shall be published by LOSFA to the eligible Louisiana institutions.

2. Each institution shall determine the award amounts for eligible students at that institution based on the requirements in these rules, the allocation to the institution, the institution's financial aid packaging policy, and the guidance established by the board and published by LOSFA.

D. The total amount awarded for GO Grants during any academic year is limited to the total amount appropriated for

the award for the academic year. Eligibility for an award during any particular semester, quarter or term does not guarantee that a student will receive the GO Grant in a subsequent semester, quarter or term.

E. Allocation of Funds. The amount allocated to an eligible institution will be determined by dividing the amount of the institution's prior year's allocation that was expended by the total amount appropriated for that academic year multiplied by the total amount appropriated for the current year.

F. Reallocation of Funds. Uncommitted funds allocated to a particular institution shall be reallocated if not committed by the deadline set by LOSFA. Uncommitted funds shall be apportioned among those institutions that have committed all funds allocated to the institution before the deadline, and have students who are eligible for an award and did not receive it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023, 17:3046 et seq. and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2614 (December 2007), amended LR 34:236 (February 2008), LR 35:2349 (November 2009), LR 39:2234 (August 2013), LR 44:

§1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. 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. The term "the board" refers to the Louisiana Board of Regents.

Academic Year—the *academic year* begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term of the award year. Summer terms are not included in the *academic year* unless authorized by the board and only if the post-secondary institution provides students with Pell Grants or financial need grants during the summer session.

Administering Agency—the Louisiana Board of Regents (the board) through the Louisiana Office of Student Financial Assistance (LOSFA).

Cost of Attendance—the total cost for a student to attend a particular eligible Louisiana institution, usually expressed as an academic year figure. This cost shall be determined by the institution attended in compliance with title IV of the Higher Education Act of 1965, as amended, and shall be annually updated and adopted by the institution.

Dependent Student—a student who does not qualify as an independent student for purposes of qualifying for title IV aid.

Eligible Louisiana Institution—

a. Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; and

b. Louisiana public colleges that have been granted regional candidacy status, but are not yet eligible to participate in title IV programs. Candidacy status institutions must require students to complete a FAFSA and the

institution must determine a student's eligibility in accordance with rules under this Chapter.

Enrollment—registration in programs of study at an eligible Louisiana institution.

Excess Award—an award in excess of what is authorized by these rules and the guidance established by the board and published by LOSFA.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Federal Pell Grant—the Pell Grant provided under title IV of the Higher Education Act of 1965, as amended.

Financial Need—the student's costs of attendance at the institution attended minus the expected family contribution (EFC).

Financial Need Grant—an institutional grant provided by the state for students with financial need as evidenced by the data reported on the FAFSA at a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program.

Full-Time—a student enrolled in an eligible Louisiana institution who is considered *full-time* by the school.

Go Grant Award Amount—the award amount actually paid during an academic year.

Half-Time—a student enrolled in an eligible Louisiana institution who is not full-time but is enrolled in at least six semester credit hours, or four hours at a term school.

Independent Student—a student who meets at least one of the criteria listed in Subparagraphs a-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is currently serving on active duty for purposes other than training or is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Less Than Half-Time—a student enrolled in an eligible Louisiana institution who is not full-time and is enrolled in less than six semester credit hours or four hours at a term school.

Louisiana Resident—

a. a dependent or independent student whose true, fixed, and permanent home of residence is Louisiana as reported on the free application for federal student aid (FAFSA);

b. a dependent student whose non-custodial parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency;

c. a dependent student whose parent is transferred out of Louisiana temporarily by his/her employer and that parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency;

d. a dependent student whose parent is on active duty in the armed forces and who is stationed in Louisiana under permanent change of station orders, or an independent student who is on active duty military status in the armed forces and is stationed in Louisiana under permanent change of station orders;

e. if the dependent or independent student does not report Louisiana as his true, fixed, and permanent home of residence as Louisiana on the FAFSA, the board may require an independent student applicant or the parent of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the board. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the board:

- i. if registered to vote, a Louisiana voter registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a GO Grant recipient is enrolled for measuring a student's progress in his or her educational program.

Undergraduate Program—a program of study that is designed to lead to a certificate or undergraduate degree.

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 33:2615 (December 2007), amended LR 34:236 (February 2008), LR 35:647 (April 2009), LR 35:2349 (November 2009), LR 36:2853 (December 2010), LR 39:2234 (August 2013), LR 44:

§1205. Initial Eligibility

A. To be initially eligible for a Louisiana GO Grant, a student must:

1. complete the free application for federal student aid for the year during which he intends to enroll in college;
2. be a Louisiana resident;
3. receive a federal Pell Grant or a financial need grant;
4. have remaining financial need; and
5. be enrolled in an undergraduate program on at least a half-time basis 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 36:2853 (December 2010), LR 37:1389 (May 2011), LR 38:1953 (August 2012), LR 39:2235 (August 2013), LR 44:

§1207. Continuing Eligibility

A. A student's eligibility will be reevaluated on the same schedule as eligibility for a federal Pell Grant or a financial need grant is determined at the institution, but at least once annually.

B. To continue to be eligible for a Louisiana GO Grant, a student must:

1. complete the free application for federal student aid or the renewal application for each year he enrolls in college to be considered for a Pell Grant and the Go Grant;
2. continue to receive the federal Pell Grant or a financial need grant;
3. have remaining financial need; and
4. be enrolled in an undergraduate program on at least a half-time basis 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 36:2853 (December 2010), LR 39:2236 (August 2013), repromulgated LR 44:

§1209. Responsibilities of Eligible Louisiana Institutions [Formerly §1211]

A. Initial Eligibility

1.a. Eligible Louisiana institutions must determine whether the student meets the criterion in Subparagraph a of the definition of Louisiana resident in §1203.

b. If this criterion is not met, the student may request that LOSFA make a determination of residency under Subparagraph e of the definition of *Louisiana Resident* in §1203.

2. Eligible Louisiana institutions must determine whether a student meets the initial eligibility criteria enumerated in §1205.

B. Continuing Eligibility. Eligible Louisiana institutions must determine whether a student meets the continuing eligibility criteria enumerated in §1207 on the same schedule as eligibility for a Pell Grant or a financial need grant is determined at the institution, but at least once annually.

C. Packaging Policy

1. Eligible Louisiana institutions must establish and use a policy on GO Grant packaging that provides:

a. procedures for compliance with these rules and the guidance established by the board and published by LOSFA for determining the award amount;

b. record retention to comply with Subsection I of this Section;

c. the basis used to establish any award amount that is less than the maximum award amount allowed;

d. procedures for distribution of GO Grant funds that ensure the grant is provided to students with the most financial need;

- e. priority for students who are 25 or over;
 - f. awards amounts for less than full-time students;
- and
- g. procedures for identification of transfer students and ensuring transfer students receive awards on the same basis as home students.

2. Eligible Louisiana institutions must revise the institution's GO Grant packaging policy as necessary to reflect changes to the GO Grant Program rules or guidance issued by the board.

D. Award Amount. Eligible Louisiana institutions must establish the award amounts for each individual student based on the institution's financial aid packaging policy. The amount awarded must comply with the requirements and limitations established in these rules and the guidance published by LOSFA.

E. Submission of Payment Requests. Each semester, quarter or term, eligible Louisiana institutions shall submit a payment request to LOSFA for students enrolled at the institution who have been determined eligible for a Louisiana GO Grant as follows:

1. for each student eligible for a Louisiana GO Grant who is enrolled at the end of 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;

2. the payment request shall include the:

- a. Social Security number;
- b. college code;
- c. term;
- d. date;
- e. hours attempted;
- f. award amount; and
- g. amount requested for each student;

3. for students who are enrolled in more than one eligible Louisiana institution, the home school (school paying the Pell Grant or a financial need grant) is responsible for submitting a payment request for the GO Grant based on the total hours enrolled at all institutions.

F. Over Payments

1. No institution shall submit a payment request for GO Grant funds which would result in a student receiving an annual total of more than is authorized in §1201.C.

2. Eligible Louisiana institutions certify by submitting a payment request for a GO Grant that the institution will reimburse LOSFA:

- a. for the total amount of any award that is disbursed to ineligible students; and
- b. for any amount of an award that is in excess of the maximum annual award or in excess of the maximum lifetime award (if one is established).

G. Excess Award. In the event an excess award occurs during the fall semester or quarter or the winter quarter due to receipt of additional gift aid, the school shall reduce the award amount for the spring accordingly. In the event an excess award occurs during the spring semester or quarter due to receipt of additional gift aid, the school shall document the reason for the excess award.

H. Over Award. In the event the student's total aid exceeds his financial need or the cost of attendance, any federal loan aid included in the total aid package shall be

reduced, then institutional and other aid in accordance with institutional practice, then the Louisiana GO Grant, then a TOPS award, if applicable, shall be reduced by the amount of any remaining over award.

I. Records Retention. Records pertaining to Louisiana GO Grant awards are subject to audit as required by the board and the Louisiana Legislative Auditor. Eligible Louisiana institutions shall maintain all records for a minimum of three years from creation. All such records shall be made available upon request by the board and/or the Louisiana Legislative Auditor.

J. Each eligible Louisiana institution shall provide a copy of its GO Grant packaging policy as required by §1209.C to LOSFA, when requested.

K. Audits. Eligible Louisiana institutions that participate in the Louisiana GO Grant Program grant LOSFA and the Louisiana Legislative Auditor the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable rules and regulations.

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 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010), LR 39:2236 (August 2013), LR 44:

§1213. Responsibilities of LOSFA

A. LOSFA shall pay each eligible Louisiana institution the amount requested by the eligible Louisiana institution in accordance with the provisions of §1209.

B. LOSFA shall publish to the eligible Louisiana institutions on an annual basis:

- 1. the minimum and maximum annual awards, and the maximum lifetime award, if any;
- 2. any limitations on awards;
- 3. any changes in requirements for calculation of awards; and
- 4. any other changes in the program made by the board.

C. LOSFA shall determine the residency of students who do not meet the criteria enumerated in Subparagraph a of the definition of Louisiana resident in §1203 and notify eligible Louisiana institutions of its determination(s).

D. LOSFA shall maintain a database of all students who have received the GO Grant, included social security number, college code, term, date, hours attempted, award amount, annual amount received, and aggregate amount received. In the event LOSFA receives a payment request in an amount that would exceed the maximum amount payable to a student, LOSFA will require the school to rebill.

E. Adequacy of Funding

1. After the receipt of fall semester or term payment requests, LOSFA shall determine whether sufficient funds are available to pay all anticipated awards for subsequent semesters, terms and sessions of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the board.

3. LOSFA will provide to the board information that is necessary to determine appropriate funding amounts upon the request of the board.

F. LOSFA shall audit eligible Louisiana institutions to ensure compliance with these rules.

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 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2350 (November 2009), LR 36:2853 (December 2010), LR 39:2237 (August 2013), LR 44:

§1215. Responsibilities of the Louisiana Board of Regents

A. The board shall promulgate administrative rules in accordance with the Administrative Procedure Act.

B. At least on an annual basis, the board shall review the amount appropriated for this program, and:

1. determine the minimum and maximum amount to be received by students attending school;
2. determine whether there is a maximum lifetime award and, if so, set the maximum;
3. determine what, if any, limitations should be placed on awards;
4. establish any changes in requirements for calculation of awards; and
5. provide for any other changes in the program.

C. The board shall provide notice to LOSFA of any changes to the program in sufficient time to allow timely implementation.

D. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the board shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023, R.S.17:3046 et seq. and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2618 (December 2007), amended LR 39:2237 (August 2013), LR 44:

§1217. Responsibilities of the Board of Regents

Repealed.

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 35:2350 (November 2009), amended LR 36:2853 (December 2010), LR 39:2237 (August 2013), repealed LR 44:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. Legislative Authority

1. Federal
 - a. Title IV of the Higher Education Act of 1965
 - b. 34 CFR Part 692, as amended
 - c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325)
2. State
 - a. R.S. 17:3031
 - b. Act 632 of the 1974 Regular Legislative Session
 - c. Act 228 of the 1977 Regular Legislative Session

B. Description, History and Purpose. The Louisiana Leveraging Educational Assistance Partnership (LEAP) Program, first funded in 1975, provides need-based grants to academically qualified students using federal and state

funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralized LEAP Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana LEAP Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to the Louisiana Board of Regents (the board). The board forwards award funding to the institutions for disbursement to the student or student's account.

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E.1. Allocation of Funds. Annually, funds are allocated to post-secondary institutions based on school type, the school's prior year first-time, full-time enrollment of matriculating students and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four-year schools and 40 percent for two-year schools. For the purpose of this Paragraph, *matriculating student* means a degree seeking student.

2. For the 2006-2007 academic year (college), the allocations described in E.1 above shall be made to postsecondary institutions based on 2004-2005 academic year (college) formula data.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and campuses of Louisiana Technical College and January 1 for proprietary schools. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR

28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007), LR 34:240 (February 2008), LR 34:1885 (September 2008), LR 44:

§1303. Establishing Eligibility

A. LEAP applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the selective service, if required; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the award year; and
3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA, whichever is available to the applicant, by any deadline imposed by the institution attended; and
4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 450 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a post-secondary grade point average of at least 2.00 from the most recent term; and
5. be selected and certified by the school for receipt of a LEAP Award, contingent upon final approval by the board; and
6. meet any additional selection criteria established by the individual institution participating in the LEAP Program; and
7. be certified as a full-time undergraduate student in an eligible program at an eligible post-secondary institution, as defined in §1901 and either:
 - a. be enrolled full time at the time of disbursement if disbursement occurs at the end of the 14th class day (9th class day for Louisiana Tech); or
 - b. be enrolled full time at the end of the 14th class day (9th class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the 14th class day (9th class day at Louisiana Tech); and
8. have substantial financial need, as defined in §301; and
9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by the board; and
10. not have a criminal conviction, except for misdemeanor traffic violations; and
11. agree that the award proceeds will be used exclusively for educational expenses; and
12. not be in default of an educational loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), repromulgated LR 27:1861 (November 2001), amended LR 28:448 (March 2002), LR 35:1491 (August 2009), LR 44:

§1305. Maintaining Eligibility

A. To continue receiving a LEAP Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and
2. maintain a cumulative post-secondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:642 (April 1998), LR 24:1911 (October 1998), amended LR 25:1459 (August 1999), repromulgated LR 27:1861 (November 2001), amended LR 44:

§1307. Annual Application for Participation in, and Certification of Recipients of the LEAP Program

A. Annually, the board forwards LEAP institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the LEAP Program during the prior award year. To be eligible for allotment of LEAP funds the institution must meet all of the following requirements:

1. complete and return the annual LEAP application by the specified deadline; and
2. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for LEAP; and
3. certify that students listed on the recipient roster meet federal, state and institutional specific LEAP eligibility criteria; and
4. certify that if the institution's LEAP allotment is based in part on the financial need of *independent students*, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and
5. certify that each LEAP recipient's total package of aid does not exceed the student's financial need; and
6. certify that LEAP funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to the board to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to the board for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.
7. certify that it has notified each eligible student that the grant is a LEAP grant which is funded by the state of Louisiana and the federal government.

B. Annually, the board provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

1. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted LEAP Awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and
2. submit changes to the recipient roster by completing a replacement roster, provided by the board; and
3. certify that if any LEAP funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to the board or remit the refund due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Louisiana Board of Regents, Office of Student Financial Assistance), LR 44:

Chapter 14. Early Start Program

§1401. General Provisions

A. The Early Start Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) under the direction of the Louisiana Board of Regents (the board).

B.1. Description. The Early Start Program is established to provide funding to eligible Louisiana postsecondary institutions that enroll eligible 11th and 12th grade Louisiana public high school students in college degree, developmental, or work skills courses.

2. History. The program was established by the board as the Dual Enrollment Program to provide funding to public postsecondary institutions that enroll eligible public high school students. Beginning the 2008-2009 academic year (college), the board expanded the program to include members of LAICU that enroll eligible public high school students. Act 460 of the 2008 Regular Session of the Legislature provided for participation in the program by students enrolled in nonpublic high schools and home school programs.

3. Purpose. The purpose of the Early Start Program is to provide an incentive for qualified Louisiana high school students to prepare for a postsecondary education or career.

C. Effective Date. Early Start Program payments shall be made beginning with the 2007-2008 award year to postsecondary institutions for 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Semesters/Terms. The Early Start Program will pay for enrollment in each college course during each semester or term of the academic year. Early Start Program will not pay for summer semesters or sessions.

E. Award Amount

1. The Early Start Program will pay postsecondary institutions, except for campuses of the Louisiana Technical College during 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. For 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. 17:3021-3031 and R.S. 17:3129.7.

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), LR 38:354 (February 2012), LR 44:

§1403. 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.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term.

Career Area of Concentration—a coherent sequence of courses or field of study approved by BESE that prepares a high school student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

Census Day—14th class day (or equivalent) of current term enrollment.

College Degree Course—a course in an academic subject at a Louisiana postsecondary institution that generates postsecondary institutional credit and: (1) appears on the current Louisiana Board of Regents' Statewide General Education Course Articulation Matrix for public postsecondary institutions; or (2) appears on a list of courses approved by the Louisiana Board of Regents (the board) for LAICU postsecondary institutions.

Eligible Postsecondary Institution—Louisiana public colleges or universities and regionally accredited independent colleges or universities which are members of the LAICU.

Enrichment/Developmental Course—an English or mathematics course at an eligible Louisiana postsecondary institution that generates postsecondary institutional credit, but not degree credit, and is designed to prepare the student for college-level instruction.

Home School Students—students enrolled in BESE approved home study programs and students enrolled in nonpublic (private) schools that have not sought approval from but are registered with BESE.

LAICU—Louisiana Association of Independent Colleges and Universities.

On Track to Graduate from High School—a student has earned at least 11 Carnegie units if a junior, or at least 16 Carnegie units if a senior.

Work Skills Course—a course at an eligible Louisiana postsecondary institution in a skill or occupational training area that is designed to lead to an industry-based certificate and, for students required to have a declared Career Area of Concentration, will contribute to the student's Career Area of Concentration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 35:232 (February 2009), LR 44:

§1405. Establishing Eligibility

A. To establish eligibility for the Early Start Program, all student applicants must meet the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school and beginning with the 2008-2009 Academic Year (College) in a nonpublic high school or in home school;

2. be at least 15 years of age;
3. have taken either the PLAN[®] or ACT assessment (or SAT) and those scores are on file at the high school or in the student's home school records;
4. have completed and submitted an Early Start Program application to the high school in which the student is enrolled or to the parent of the student in home school;
5. be approved by the high school in which the student is enrolled, or the parent of the student in home school, to participate in the program and to enroll in the course or courses; and

6.a. be enrolled in a course for which both public high school and college credit is attempted and for which an Early Start Program payment is made: or

b. be enrolled in a course for which both nonpublic high school or home school and college credit is attempted and for which an amount equal to the award amount of an Early Start Program payment is made.

B. Enrollment in a College Degree Course. In addition to the eligibility criteria in Paragraphs A.1-6:

1.a. for students graduating from high school or completing the 12th grade level of home school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards completing the Louisiana Board of Regents/TOPS core curriculum by high school graduation; or

b. for students graduating from high school or completing the 12th grade level of home school in academic years (high school) 2011-2012 and thereafter, the student must be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college) have a PLAN[®] or ACT (or an equivalent SAT) composite score of at least 17 to enroll in a college degree course unless the postsecondary institution requires the student to meet the criteria in §1405.B.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN[®] composite score of at least 17 or ACT (or an equivalent SAT) composite score of at least 18 to enroll in a college degree course;

3. have a PLAN[®] or ACT (or an equivalent SAT) English sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level English college degree course;

4. have a PLAN[®] or ACT (or an equivalent SAT) mathematics sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level mathematics college degree course.

C. Enrollment in an Enrichment/Developmental Course. In addition to the eligibility criteria in Paragraphs A.1-6:

1.a. for students graduating from high school or completing the 12th grade level of home school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards completing the Louisiana Board of Regents/TOPS core curriculum by high school graduation; or

b. for students graduating from high school or completing the 12th grade level of home school in academic years (high school) 2011-2012 and thereafter, the student

must be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college), have a PLAN[®] or ACT (or an equivalent SAT) composite score of at least 12 to enroll in an enrichment/developmental course unless the postsecondary institution requires the student to meet the criteria in §1405.C.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN[®] composite score of at least 14 or ACT (or an equivalent SAT) composite score of at least 15 to enroll in an enrichment/developmental course or meet the postsecondary institution's pre-requisite requirement to enroll in the course;

D. Enrollment in a Work Skills Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have:

1.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college), a PLAN[®] or ACT Composite score (or an equivalent SAT score) of at least 12 unless the postsecondary institution requires the student to meet the criteria in §1405.D.1.b. below or a WorkKeys Bronze Certificate;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, PLAN[®] composite score of 14 or ACT Composite score (or an equivalent SAT score) of at least 15 or a WorkKeys Bronze Certificate;

2.a. for students graduating from high school or completing the 12th grade level of home school in academic years (high school) 2008-2009 through 2010-2011 and thereafter:

i. be working towards completing the Louisiana Board of Regents/TOPS core curriculum by high school graduation; or

ii. be working towards and on track to graduate from high school and have a declared Career Area of Concentration;

b. for students graduating from high school or completing the 12th grade level of home school in academic year (high school) 2011-2012 and thereafter:

i. be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education; or

ii. be working towards and on track to graduate from high school and have declared a Career Area of Concentration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3129.7 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 35:232 (February 2009), LR 44:

§1407. Continuing Enrollment

A. To continue enrollment in subsequent semesters/terms in the Early Start Program, the student must:

1. have successfully completed and earned credit in the last course(s) in which a student enrolled through the Early Start Program. If the student resigns, or withdraws from a course or the student's registration in the course is cancelled, the student must receive permission from both the high school and college to continue enrollment in subsequent semesters/terms;
2. be in good standing at the postsecondary institution;

3. continue to meet eligibility requirements in §1405.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 35:233 (February 2009), repromulgated LR 44:

§1409. Responsibilities of High Schools and School Boards and Parents of Home School Students

A. The student's high school or the parent of a home school student shall:

1. determine whether the student meets the initial eligibility criteria provided in §1405.A;
2. approve or disapprove the student's participation in the program;
3. approve the course or courses in which the student will enroll;
4. provide to the postsecondary institution at which the student will be dually enrolled:
 - a. the student's approved application; and
 - b. the student's PLAN and/or ACT test scores, including sub-scores on those tests required to enroll in specific courses as provided in §1405.B-D.

B. By forwarding the student's application to the postsecondary institution, the student's high school or the parent of a home school student certifies that it has determined that the student has met all criteria in §1405.A to participate in the Early Start Program and has approved the student's participation in the program and the course or courses in which the student will be enrolled.

C. Student must be enrolled in a college course for which high school or home school credit is attempted and recorded on the student's secondary permanent academic record, including the high school course, units attempted, units earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled.

D. At the end of each semester or term of participation in the program, the student's high school or the parent of a home school student shall determine whether the student has met the criterion in §1407.A.1 for continued enrollment in the Early Start Program. If the student is determined eligible and the high school or the parent of a home school student approves the student's continued participation in the program, it shall so notify the postsecondary institution and provide the course or courses approved for enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 35:233 (February 2009), repromulgated LR 44:

§1413. Responsibilities of Eligible Louisiana Postsecondary Institutions

A. Each eligible Louisiana postsecondary institution that participates in the Early Start Program shall:

1. be responsible for determining that the student meets the PLAN or ACT eligibility criteria provided in §1405.B-D;
2. reserve Early Start Program funds when the student enrolled in a public high school is accepted and enrolled in an appropriate course;

3. submit a payment request to LOSFA for public high school students enrolled at the institution for whom a reservation was made as follows:

a. for each public high school student eligible for the Early Start Program who is enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

b. payment request amount. Each semester or term, the postsecondary institution in which a student is enrolled in an Early Start course shall submit a payment request to LOSFA during the period the billing portal is open for each semester/term for which the student is enrolled in the amount of \$100 per credit hour in which the student is enrolled, not to exceed \$300 for each college course. Payment requests received outside of these timeframes will not be paid unless approved by the board;

c. the postsecondary institution may not charge the student any mandatory institutional and tuition fees for enrollment in a course paid for by the Early Start Program;

d. the payment request shall include the Social Security number, college code, high school code, term, date, college course type, hours attempted, and amount requested for each student;

4. for each nonpublic high school student and each home school, submit to LOSFA within 30 days of the census date of the semester/term for which the student is accepted in the Early Start Program the student's name, Social Security number, college code, high school code, term, date, college course type, hours attempted;

5. for students who have been previously enrolled in the Early Start Program, determine whether the student is in good standing at that institution;

6. by submitting a payment request to LOSFA, the postsecondary institution certifies that:

a. the student meets the eligibility criteria provided in §1405.B-D for the college course in which the student is dually enrolled;

b. the student was enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

c. the student's high school or the parent of a home school student has provided notice that the student is eligible for and has been approved to continue participation in the program; and

d. the student's high school or the parent of a home school student has provided notice of the course or courses approved for enrollment;

e. the student is in good standing at the institution;

7. verify that the student is enrolled in a college course for which college credit is attempted and recorded on the student's postsecondary permanent academic record, including the college course, credit attempted, credit earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled;

8. report student level outcome data to the board according to the board's specifications.

B. Records Retention

1. Records pertaining to the Early Start Program are subject to audit as required by LOSFA, the board, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years. All

such records shall be made available upon request by LOSFA, the board and the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:241 (February 2008), LR 35:234 (February 2009), LR 44:

§1415. Responsibilities of the Louisiana Board of Regents

A. The board shall provide a student application to participate in the Early Start Program.

B. The board shall maintain a Statewide General Education Course Articulation Matrix for participating public postsecondary institutions.

C. The board shall approve on a semester by semester basis the courses offered by LAICU postsecondary institutions that are approved for use in the Early Start Program.

D. In the event that the funds appropriated for the Early Start Program are insufficient to pay for all eligible public high school students, the board shall develop, approve and deliver a plan to LOSFA to address the shortfall.

E. The board shall provide specifications for submitting student level outcome data as required by §1413.A.8.

F. The board shall promulgate administrative rules in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 35:234 (February 2009), LR 38:1229 (May 2012), LR 44:

§1417. Responsibilities of LOSFA

A. Upon receipt of payment requests from institutions submitted in accordance with §1413.A, LOSFA shall pay the institution for each eligible student in accordance with §1413.

B. LOSFA shall conduct audits of the participating eligible Louisiana postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining eligibility for the Early Start Program.

D. LOSFA shall audit high schools and postsecondary institutions to ensure compliance with these rules.

E. LOSFA shall maintain a database of all students who have participated in the Early Start Program, including Social Security number, college code, high school code, term, date, college course type, hours attempted, payment amount, and aggregate amount paid.

F.1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available for all anticipated program payments for subsequent semesters and terms of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the board.

3. In the event additional funds are not allocated for all program payments anticipated for subsequent semesters and terms during the academic year, the board shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 35:234 (February 2009), LR 44:

§1419. Responsibilities of LASFAC

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2612 (December 2007), amended LR 34:242 (February 2008), repealed LR 44:

Chapter 15. Grant Opportunity for Youth Challenge Skills Training Program

§1501. General Provisions

A. Legislative Authority. The Louisiana Grant Opportunity for Youth Challenge Skills Training Program (the GO-Youth Challenge Program) was created by Act 826 of the 2003 Regular Session of the Louisiana Legislature.

B. Purpose. It is the purpose of the program to encourage and assist those students who graduate from the Louisiana National Guard's Youth Challenge Program to continue their education and enhance their employment opportunities by providing tuition at an eligible Louisiana postsecondary institution.

C. Effective Dates. The program shall be available to any student who completes the Louisiana National Guard's Youth Challenge Program after June 30, 2003.

D. Eligible Courses of Study. The program grant may be used to pursue postsecondary skill or occupational training, including a vocational technical education certificate or diploma or a nonacademic undergraduate degree.

E. Eligible Institutions. Eligible students may use the program grant at the following institutions:

1. Louisiana public community colleges that offer skill or occupational training and the Louisiana Technical College; and

2. a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities and offers skill or occupational training.

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two program years (non-academic) in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;

2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See §1903.B.8 for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable:

Certification—the time at which LOSFA has received both the *certification* from the State Military Department and the results of the FAFSA data from the federal processor.

FAFSA—the Free Application for Federal Student Aid used to apply for federal grant aid and eligibility for other federal assistance.

Graduate—a student who has completed the Louisiana GO-Youth ChalleNGe Program and, no later than 18 months after entry into the *program*, received a Louisiana High School Equivalency Diploma.

Program—the GO-Youth ChalleNGe Program.

Resident of Louisiana—a student who actually resides in Louisiana during the 24 months prior to the month the student enrolls for the first time as a full-time student in an eligible institution as a recipient of a grant under the *program*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004), repromulgated LR 44:

§1503. Establishing Initial Eligibility

A. To establish initial eligibility for participation in the program, the student must meet all of the following criteria:

1. be a citizen of the United States or designated by the U.S. Citizenship and Immigration Services (USCIS) as a permanent resident; and
2. be a resident of Louisiana, as defined in §1501; and
3. graduate from the residential phase of the Louisiana National Guard's Youth ChalleNGe Program; and
4. have earned a Louisiana High School Equivalency Diploma; and
5. not have a criminal conviction, except for misdemeanor traffic violations; and
6. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
7. submit a FAFSA for every year of enrollment in a postsecondary institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004), amended LR 44:

§1505. Deadline to Enroll as a Full-Time Student

A. In order to receive a grant under the program, a student must have met the criteria defined in §1503 and, unless granted an exception for cause by the Louisiana Board of Regents (the board), enrolled as a full-time student:

1. not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from the Louisiana National Guard's Youth ChalleNGe Program; or
2. if the student Joins the United States Armed Forces upon graduation from the Louisiana National Guard's Youth ChalleNGe Program, not later than the semester, excluding summer semesters or sessions, immediately following the 5th anniversary of the date that the student graduated

Louisiana National Guard's Youth ChalleNGe Program or within one year from the date of discharge or one year from separation from active duty, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), amended LR 44:

§1507. Maintaining Eligibility

A. To continue receiving the program grant, the student must meet all of the following criteria:

1. have received the program grant for not more than two years, unless granted an exception for cause; and
2. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions unless required by the institution for a particular course of study) as a full-time student, unless granted an exception for cause; and
3. maintain *steady academic progress* as defined in §301; and
4. earn at least 24 hours each *program year* (*non-academic program*) as defined in §301, unless granted an exception for cause; and
5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each program year (*non-academic program*); and
6. not have a criminal conviction, except for misdemeanor traffic violations; and
7. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
8. submit a FAFSA or renewal FAFSA for each academic year during which the student is enrolled in a postsecondary institution.

B. Students failing to meet the requirements listed in §1507.A.3 and 5 may have their tuition grants reinstated upon regaining *steady academic progress* (see §301) and/or attainment of the required GPA, if the student has maintained other continuation requirements and the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one-year period is interrupted due to a student's active duty in the United States Armed Forces, the one-year period will be extended for the length of time equal to the student's active duty service, not to exceed four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated LR 44:

§1509. Responsibilities of the State Military Department (SMD)

A. The State Military Department is responsible for determining whether participants in the Louisiana Youth ChalleNGe Program meet the eligibility requirements to participate in the program set forth in §1503.A.1-6 above. The submission of a student's data for the GO-Youth ChalleNGe Program shall constitute a certification by the State Military Department that the student meets the requirements of §1503.A.1-6, specified above, except that the certification shall not include the certification of

residency required by §1503.A.2, if a participant does not meet the residency requirement at the time the participant is awarded a Louisiana High School Equivalency Certificate.

B. For each student determined to be eligible to participate in the program, the State Military Department shall provide the following student data in an electronic file format acceptable to LOSFA:

1. name;
2. Social Security number;
3. permanent mailing address;
4. telephone number;
5. date enrolled in the Louisiana Youth ChalleNGe Program;
6. date the student completed the residential phase of the Louisiana National Guard's Youth ChalleNGe Program;
7. date received a Louisiana High School Equivalency Diploma;
8. students' order of merit ranking within their class; and
9. if the student does not have 24 months of Louisiana residency at the time the Louisiana High School Equivalency Certificate is awarded, the date of initial Louisiana residency.

C. To the extent funds are appropriated to the State Military Department to fund the program, the State Military Department shall take such actions as are necessary to promptly transfer such funds to LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated LR 44:

§1511. Responsibilities of LOSFA

A. Upon certification by the SMD that students have met program criteria, LOSFA shall make the students eligible for the program grant as long as funds appropriated for that purpose are available.

B. LOSFA shall determine whether participants meet the residency requirement in §1503.A.2 above, if the residency requirement has not been met at the time the participant earns a Louisiana High School Equivalency Certificate.

C. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

D. LOSFA shall conduct audits of the Louisiana Youth ChalleNGe Program campuses and postsecondary institutions to ensure compliance with program requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated LR 44:

§1513. Funding Shortfall

A. LOSFA shall not make students eligible if funds appropriated for the program are not available or if funds have not been appropriated for the program.

B. In the event appropriated funds are insufficient to fully reimburse institutions for the grants for all students determined eligible for the program for a given academic

year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

1. Awarded students who meet the requirements for continuation will be funded first; however, if there are insufficient funds for all such students, the students who have completed the most hours will be funded first and, if there are ties, the students with the highest cumulative grade point average will be funded first.

2. Any remaining students will be awarded according to their order of merit as determined by the SMD, based on the student's performance in the Louisiana Youth ChalleNGe Program.

C. Should additional funds become available after a budget shortfall, LOSFA shall restore students' grants in accordance with the priorities established in Subsection B, above, until such funds are exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:784 (April 2004), repromulgated LR 44:

Chapter 16. Health Care Educator Loan Forgiveness Program

§1601. General Provisions

A. The Health Care Educator Loan Forgiveness Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) under the direction of the Louisiana Board of Regents (the board).

B. Description, History and Purpose. The Health Care Educator Loan Forgiveness Program (Program) is established to provide funding to individuals to pursue an advanced degree, either masters or doctoral degree, in nursing or allied health. The purpose of the program is to provide an incentive for individuals who receive an advanced degree in nursing or allied health education to become postsecondary education faculty members in the field of registered nursing or top demand allied health education.

C. Effective Date. Health Care Educator Loans shall be disbursed by the board beginning with the 2008-2009 academic year.

D. Eligible Semesters/Terms. Health Care Educator Loans will be disbursed to recipients seeking a master's degree in August and January. Health Care Educator Loans will be disbursed to recipients pursuing a doctoral degree in August, January, and June, if applicable.

E. Award Amount. A Health Care Educator Loan Forgiveness Program recipient may receive up to \$20,000 per academic year. Recipients pursuing a master's degree may receive a lifetime maximum loan of \$40,000 and may receive two disbursements of \$10,000, one in August and one in January. Recipients pursuing a doctoral degree may receive a lifetime maximum loan of \$60,000 and may receive up to three disbursements per academic year, depending upon whether he is enrolled full-time or at least 2/3 time. A recipient pursuing a doctoral degree may receive \$10,000 if he is enrolled full-time and \$5,000 if he is enrolled at least 2/3 time, one disbursement in August and one disbursement in January. A recipient who has not

received \$20,000 during the academic year and who enrolls during the summer term will receive \$5,000 in June.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:224 (February 2009), amended LR 44:

§1603. 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.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, the spring semester or term, and concludes with the completion of the summer term, if applicable.

Enrolled Full-Time—the student is enrolled for at least 9 semester hours in the fall or spring (or equivalent for term), 6 semester hours in the summer or equivalent as determined by the program in which he is enrolled.

Enrolled 2/3 Time—the student is enrolled for at least 6 semester hours in the fall or spring (or equivalent for term).

Participating Institution—a postsecondary institution that has been approved by the board to participate in the Health Care Educator Loan Forgiveness Program.

Recipient—a masters or doctoral degree student who has been nominated by a participating institution to participate in the Health Care Educator Loan Forgiveness Program and who has completed a master promissory note to receive program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:224 (February 2009), amended LR 36:2550 (November 2010), repromulgated LR 44:

§1605. Participation in the Program

A. To participate in the Health Care Educator Loan Forgiveness Program, a student must be nominated to participate in the program by a participating institution.

B. Once nominated, a student must complete and return a master promissory note to the Louisiana Office of Student Financial Assistance. By signing the master promissory note, the student agrees that:

1. for students seeking a masters degree:

a. he will enroll full-time in the degree program during the fall, winter, if applicable, and spring semesters/terms;

b. he will remain enrolled full-time unless granted an exception to this requirement by the board;

c. upon completion of his degree program, he will become a full-time nurse or allied health faculty member at the institution which nominated him for the health care educator loan;

d. he will remain a full-time nurse or allied health education faculty member until he teaches one year for each \$10,000 he received;

2. for students seeking a doctoral degree:

a. he will enroll full-time, or at least 2/3 time, in the degree program during the fall, winter, if applicable, and spring semesters/terms;

b. he will remain enrolled full-time, or at least 2/3 time, unless granted an exception to this requirement by the board;

c. upon completion of his degree program, he will become a full-time nurse or allied health faculty member at the institution which nominated him for the health care educator loan;

d. he will remain a full-time nurse or allied health education faculty member until he teaches one full year for each \$10,000 he received.

C. A recipient will be eligible to continue to receive Health Care Educator Loan Forgiveness Program loans until he obtains his masters or doctoral degree, provided that he continues to maintain full time enrollment, or at least 2/3 time enrollment for doctoral degree students, unless an exception to this requirement is granted for cause in accordance with §1607.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:225 (February 2009), amended LR 44:

§1607. Exceptions to Program Requirements

A. Exception to the full time enrollment requirement, or 2/3 time enrollment for those seeking a doctoral degree.

1. The board may grant an exception to the full-time enrollment requirement or 2/3 time for doctoral students, if all of the following conditions are met.

a. The recipient has a temporary mental or physical disability, or other circumstance for which the board may deem an exception is appropriate.

b. The recipient requests an exception and provides such documentation as the board requires in order to evaluate whether an exception should be granted.

c. The recipient requests and obtains approval for the exception prior to withdrawing from enrollment or decreasing the number of hours in which he is enrolled.

2. The board may grant an exception to the requirement to become a full-time nurse or allied health education faculty member if the following conditions are met.

a. The recipient has a temporary mental or physical disability or other circumstance for which the board may deem an exception is appropriate.

b. The recipient requests an exception and provides such documentation as the board requires to evaluate whether an exception should be granted.

c. The recipient requests and obtains approval for the exception prior to terminating his employment or otherwise fails to meet the requirement to teach full-time as a registered nursing or allied health education faculty member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:225 (February 2009), amended LR 44:

§1609. Discharge of Obligation

A. The obligations of the recipient may be discharged by cancellation, teaching for the required period of obligation, or by monetary repayment.

B. Cancellation. The board may discharge the requirement to maintain full-time enrollment, or 2/3 time for doctoral degree students, the requirement to complete the degree program in which the recipient is enrolled, or the requirement to teach full-time as a registered nurse or allied health education faculty member under the following circumstances:

1. the recipient has a permanent mental or physical disability, or other circumstance for which the board may deem discharge is appropriate; and
2. the recipient provides such documentation as the board requires in order to evaluate whether a discharge should be granted; or
3. the participating institution at which the recipient is employed requests that the board discharge the teaching requirement and provides such documentation that the board requires to make a determination that the obligation should be discharged.

C. Fulfillment of Teaching Requirement. The obligation may be discharged under the following conditions:

1. the recipient secures full-time employment as a nurse or allied health program faculty member at the institution which nominated him for the loan program or at another participating institution with the assistance and approval of the institution which nominated him for the loan program; and
2. the recipient begins teaching full-time as a nurse or allied health program faculty member no later than the semester following the semester the student obtains his masters or doctoral degree; or
3. if the student is unable to secure employment as a fulltime faculty member at the institution which nominated him for the loan program or at another participating institution with the assistance and approval of the institution which nominated him for the loan program, the recipient may fulfill the teaching obligation by working in a public health facility, state office, or other alternative service as the board may deem appropriate. The student must seek and obtain board approval prior to undertaking such an alternative service position;
4. each year of full time teaching or other alternative service as approved by the board will discharge \$10,000 of the obligation.

D. Monetary Repayment. A recipient may be terminated from participation in the program either with or without default.

1. Termination without Default
 - a. Termination without default occurs when:
 - i. the recipient's enrollment in the degree program for which he received program funds is discontinued;
 - ii. the recipient fails to remain enrolled on a full-time basis, or 2/3 time for doctoral students; or
 - iii. the recipient fails to maintain good academic standing.
 - b. In the event of termination without default, the recipient must repay the total of program funds received plus interest to LOSFA within 90 days of the date an event listed in §1609.D.1.a.(i)-(iii) occurs.
 - c. Interest will accrue at the prime interest rate at the time the condition in §1609.D.1.a.(i)-(iii) occurs plus

3 percent. Interest will accrue from the date of each disbursement.

2. Termination with Default

a. Termination with default occurs:

- i. if, upon completion of the degree, the recipient fails to obtain a full-time faculty position in a nurse or allied health education program or fails to obtain approval for an alternative service position without just cause; or
- ii. the recipient is terminated from his employment for cause or voluntarily leaves his employment prior to fulfillment of the teaching obligation.

b. In the event of termination with default, the principal due at the time of default will be calculated in accordance with the following formula.

- i. $[(a/b) \times (b-c)]^3 = d$.
- ii. For purposes of the formula above, "a" is equal to the total of the loans disbursed; "b" is equal to the months of service obligation required; "c" is equal to the number of months of the teaching obligation that were fulfilled; and "d" is equal to the total principal balance at the time repayment begins.

c. Interest will accrue on the principal due at the prime rate at the time of default plus 3 percent.

d. Interest will begin to accrue 60 days following the board's determination that the recipient is in default and shall accrue for the duration of the repayment period.

e. The recipient must make payment in full of the total amount due or begin making monthly payments no later than 60 days after the date of default and shall pay at least 25 percent of the total amount, including interest, due each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:225 (February 2009), amended LR 44:

§1611. Responsibilities of Program Fund Recipients

A. Each recipient of program funds shall:

1. provide LOSFA with a completed master promissory note and W-9 form;
2. provide the board with documentation that he was enrolled, in good academic standing, full-time, or 2/3 time for doctoral students, not later than August 15, January 15, or June 15, if applicable, of each academic year during which he is to receive program funds;
3. provide the board with documentation that he has undertaken to discharge his obligation:
 - a. by teaching full-time as a nurse or allied health program faculty member; or
 - b. by working in a public health facility, state office, or other alternative service as the board previously approved in accordance with §1615.F;
4. provide any other information to the board or LOSFA as deemed necessary to process a request for an exception to the program requirements or a request for discharge of the obligations of the recipient in connection with the receipt of program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:226 (February 2009), re-promulgated LR 44:

§1613. Responsibilities of Participating Institutions

A. Each participating institution shall:

1. nominate individuals to participate in the Health Educator Loan Forgiveness Program in accordance with specifications to be provided to it by the board;

2. provide the board with the following information on each nominee:

- a. name;
- b. current address;
- c. Social Security number;
- d. program of study; and
- e. anticipated graduation date;
- f. other information as requested by the board.

3. at the request of the board, provide documentation that recipients enrolled full-time, or at least 2/3 time for doctoral students, if the recipient is enrolled at that institution, and that the student is in good academic standing;

4. at the request of the board, provide documentation that a recipient is or was employed as a full-time registered nurse or allied health education faculty member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:226 (February 2009), amended LR 44:

§1615. Responsibilities of the Louisiana Board of Regents

A. The board shall notify each institution that is eligible to participate in the program of its eligibility, the number of students it may nominate for the academic year, and the number of those students nominated which may be enrolled as a masters or doctoral degree students.

B. The board shall collect information from the participating institutions as set forth in §1613.A-D. The board shall notify all participating institutions if additional information is required.

C. The board shall provide the information collected from participating institutions regarding nominees to LOSFA within 30 days of receipt in a format to be agreed upon between the board and LOSFA.

D. In the event a recipient is terminated from participation in the program, the board will determine whether it is with or without default, determine the date the termination if without default or the date of default if with default and immediately notify LOSFA.

E. The board will receive requests for exception to program requirements and requests for discharge from participating institutions and recipients. It will evaluate the requests and notify the participating institution and/or recipient if additional information is needed to process the request and what that information is. It will notify the participating institution, the recipient, and LOSFA of any determination regarding a request for exception to program requirements or for discharge.

F. The board will evaluate a request by a recipient to undertake to discharge his obligation by a form of service other than as a full-time registered nurse or allied health education faculty member and approve or deny such request in writing.

G. The board shall promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:226 (February 2009), amended LR 44:

§1617. Responsibilities of LOSFA

A. LOSFA shall:

1. obtain program nominee information from the board and provide the nominee with a master promissory note, written instructions, and a W-9 form;

2. LOSFA will pay program funds directly to the student when all of the following have been satisfied:

a. it has received a completed, signed master promissory note;

b. it has received a completed W-9; and

c. it has received confirmation from the board that a recipient was enrolled full-time, or at least 2/3 time for doctoral degree students in accordance with §1611.B;

3. LOSFA will maintain a secure database of all information collected on recipients and former recipients, including name, address, Social Security number, program of study, name of the institution which nominated the student for the loan program, name of the institution at which a recipient was enrolled when receiving program funds, anticipated graduation date, amount disbursed, and maximum amount available;

4. upon notification by the board that a recipient has been terminated from the program without default, LOSFA will:

a. calculate the total amount due;

b. notify recipient of the date of the event listed in §1609.D.1.a.(i)-(iii) and that he has 90 days from that date to pay the full amount due;

c. if payment is not received within 90 days of the date of termination as determined by the board, LOSFA will institute collection activities and forward the file to the collection division of the Louisiana Attorney General's Office;

5. upon notification by the board that a recipient has been terminated from the program with default, LOSFA will:

a. calculate the total amount due;

b. notify recipient of the date of default and that he has 60 days from the date of default to pay the full amount due or begin making monthly payments in amount sufficient to pay at least 25 percent of the total amount due, including interest, each calendar year;

c. if payment of the total amount due or repayment does not begin within 60 days of the date of default, LOSFA will institute collection activities, including forwarding the file to the collection division of the Louisiana Attorney General's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:227 (February 2009), repromulgated LR 44:

§1619. Responsibilities of LASFAC

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:227 (February 2009), repealed LR 44:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and the Louisiana Board of Regents on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based upon the High School Attended

A. Graduates of the following high schools are eligible to participate in the Louisiana Board of Regent's (the board) Scholarship and Grant Programs, as authorized herein:

1. Louisiana Public High Schools—public high schools listed in the electronic STSQ14 report, High School Sites Extract File, provided annually by the Louisiana Department of Education to LOSFA;

2. approved nonpublic high schools:

a. nonpublic high schools approved by the Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 and which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and

b. nonpublic schools approved by BESE pursuant to R.S. 17:11 prior to May 15, 2000, which have applied for and have had their application forwarded by the Louisiana Department of Education prior to May 15, 2000, seeking the approval necessary for the students in such school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and starting the 2003-2004 high school academic year, meet the requirements to be eligible to receive from the state the benefit of such appropriations;

c. the approvals by BESE may be provisional or probational approvals;

d. approved nonpublic high schools are listed in the electronic STSQ14 report, High School Sites Extract File, provided annually to LOSFA by the Louisiana Department of Education.

3. eligible non-Louisiana high schools-eligible non-Louisiana high schools are high schools which meet all of the following:

a. are in a state adjoining the state of Louisiana; and

b. have provided the board with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and

c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana Minimum Foundation Program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools—

a. all other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana;

i. which have been approved by the state or territory's chief school officer, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE); or

ii. which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above; or

iii. for students graduating during the 2002-2003 school year and thereafter, which high school has been approved by a regional accrediting organization recognized by the United States Department of Education and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above; and

iv. for students graduating during the 2009-2010 school year and thereafter with an international baccalaureate diploma, which high school has been approved by the International Baccalaureate Organization to issue such a diploma;

b. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the Leveraging Educational Assistance Partnership Program;

c. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the armed forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS;

d. a school will be deemed to be approved by the appropriate state agency if that state agency certifies:

i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and

ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes;

5. Out-of-Country High Schools—

a. all other public or non-public high schools located outside the United States or the territories of the United States that meet the standards adopted by BESE for approval of nonpublic schools in Louisiana and which are accredited by an accrediting organization recognized by the United States Department of Education; and

b. those high schools located in foreign countries which have been authorized or approved by a department in the executive branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad; and

c. for students graduating during the 2009-2010 school year and thereafter with an international baccalaureate diploma, those high schools located outside the United States and its territories that have been approved by the International Baccalaureate Organization to issue such a diploma.

B. Non-high school graduates who have earned a Louisiana High School Equivalency Diploma (GED) in lieu of a high school diploma are eligible to participate in the

Leveraging Educational Assistance Partnership (LEAP) Grant Program and the Louisiana GO-Youth Challenge Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3129.7, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:67 (January 2000), LR 26:1997 (September 2000), repromulgated LR 27:1862 (November 2001), amended LR 30:784 (April 2004), LR 30:1165 (June 2004), LR 34:242 (February 2008), LR 40:56 (January 2014), LR 44:

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Through the 2002 academic year (high school), responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS Award is as follows:

- a. the principal or the principal's designee for public high schools;
- b. the principal or headmaster or designee of each nonpublic high school approved by BESE;
- c. the principal or headmaster or designee of an eligible non-Louisiana high school;
- d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by the board.

2. Commencing with the 2003 academic year (high school), responsibility for the submission and certification of courses attempted and the grades earned for high school graduates is as follows:

- a. the principal or the principal's designee for public high schools;
- b. the principal or headmaster or designee of each nonpublic high school approved by BESE;
- c. the principal or headmaster or designee of an eligible non-Louisiana high school;
- d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by the board.

3. The Louisiana Department of Education shall certify to the board the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program.

B. Procedures for Reporting and Certifying Student Performance

1.a. Through the 2002 academic year (high school), the responsible high school authority shall record student performance on the form provided by the board or in an electronic format pre-approved by the board. The certification form shall be completed, certified and returned to the board by the deadline specified on the form.

b. Commencing with the 2003 academic year (high school), the responsible high school authority shall submit

the required student information in a standard electronic format approved by the board.

2.a. Through the 2002 academic year (high school), the certification form shall contain, but is not limited to, the following reportable data elements:

- i. student's name, address, phone number and Social Security number;
- ii. month and year of high school graduation;
- iii. final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable;

NOTE: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum; and

iv. through the graduating class of the academic year (high school) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended. After the graduating class of the academic year (high school) 2002-2003, core unit requirements may not be waived.

b. Commencing with the 2003 academic year (high school), certification shall contain, but is not limited to, the following reportable data elements:

- i. student's name and Social Security number;
- ii. month and year of high school graduation;
- iii. the course code for each course completed;
- iv. the grade for each course completed;
- v. designation of each advanced placement, international baccalaureate, gifted and dual enrollment course;
- vi. the grading scale for each course reported;
- vii. list the high school attended for each course reported; and

viii. through the graduating class of the academic year (high school) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended. After the graduating class of the academic year (high school) 2002-2003, core unit requirements may not be waived.

c. Commencing with the 2014-2015 academic year (high school), for each student for whom the school has been granted consent to collect and disclose PII to LOSFA, Louisiana public high schools as defined in §1703.A.1 above shall collect the following reportable data elements for each year of attendance for those students in the ninth through twelfth grades:

i. verification that the school has been granted written consent to collect and disclose the student's PII to LOSFA from the student's parent or legal guardian, if the student is not at least 18 or judicially emancipated; or by the student, if the student is at least 18 or judicially emancipated;

ii. student's full name, date of birth, and Social Security number;

iii. transcript data, including, but not limited to:
(a) student's BESE identification number;
(b) month and year of high school graduation;
(c) the course code for each course completed;
(d) the grade for each course completed;
(e) the term and year each course is completed;
(f) designation of each advanced placement, International Baccalaureate®, honors, gifted and talented,

articulated course for college credit, and dual enrollment course;

(g). the grading scale for each course reported; and

(h). the high school attended for each course reported.

d. Commencing with the 2014-15 academic year (high school), certification from all approved non-public Louisiana high schools as defined in §1703.A.2 and 3 above shall contain, but is not limited to, the following reportable data elements:

i. student's full name, date of birth, and Social Security number;

ii. transcript data, including, but not limited to:

(a). month and year of high school graduation;

(b). the course code for each course completed;

(c). the grade for each course completed;

(d). the term and year each course is completed;

(e). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(f). the grading scale for each course reported; and

(g). the high school attended for each course reported.

3. Through the 2002 academic year (high school), the responsible high school authority shall certify to the board the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows. (In this example, the school awards one extra quality point for an honors course.)

i. Example: an applicant earned a "C" in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4. Commencing with the 2003 academic year (high school), the board shall determine whether high school graduates have completed the core curriculum and compute the TOPS cumulative high school grade point average for each such graduate using a maximum 4.00 grading scale. Grades awarded on other than a maximum 4.00 scale shall be converted to a maximum 4.00 scale.

C. Certifying 1998 graduates for the TOPS Performance Award. 1998 graduates who are ranked in the top five percent of their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award by the board:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

D. Certification

1. Through the 2002 academic year (high school), the high school headmaster or principal or designee shall certify that:

a. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

b. records pertaining to the listed students will be maintained and available upon request to the board and the Legislative Auditor for a minimum of three years or until audited, whichever occurs first; and

c. the school under the principal's jurisdiction shall reimburse the board for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate;

2. commencing with the 2003 academic year (high school), the submission of the required data by the high school headmaster or principal or designee shall constitute a certification that:

a. all data reported are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

b. records pertaining to the listed students will be maintained and available upon request to the board and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. commencing with the 2014-2015 academic year (high school), the submission of the required data by the high school headmaster or principal or designee of Louisiana public high schools as defined in §1703.A.1 above shall constitute a certification that:

a. the school has complied with the requirements of R.S. 17:3913.K to:

i. beginning in the eighth grade, annually at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian

may provide consent or deny consent for the collection and disclosure of the student's personally identifiable information as follows:

- (a). full name;
- (b). date of birth;
- (c). Social Security number; and
- (d). transcript data, including, but not limited to:
 - (i). student's BESE identification number;
 - (ii). month and year of high school graduation;
 - (iii). the course code for each course completed;
 - (iv). the grade for each course completed;
 - (v). the term and year each course is completed;
 - (vi). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;
 - (vii). the grading scale for each course reported; and
 - (viii). the high school attended for each course reported;

ii. use a form provided by LOSFA or a form substantially similar to LOSFA's form that:

(a). provides notification of exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid;

(b). requires acknowledgment that the failure to provide written consent for the collection and disclosure of the student's information may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid;

iii. collect the personally identifiable information for each student for whom consent was provided;

4. commencing with the 2003 academic year (high school), if a student is determined to be eligible for a TOPS award based on data that is incorrect and the student was in fact ineligible for a TOPS award or the level awarded, the high school must reimburse the board for the amount paid in excess of what the student was eligible for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3129.7 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880 (June 2003), LR 30:1165 (June 2004), LR 40:57 (January 2014), LR 41:656 (April 2015), LR 44:

§1705. Notification of Certified Students

A. Through the 2002 academic year (high school), if the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have

been certified as academically eligible for a Taylor Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Board of Regents; and

2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Board of Regents.

B. Commencing with the 2003 academic year (high school), if the certifying authority elects to notify students of their potential eligibility for an award, then the following disclaimer shall be included in any communication to the student: "Although it appears that you have satisfied the academic requirements for a Taylor Opportunity Program for Students (TOPS) Award based on this school's review of the core curriculum courses you have completed and calculation of your TOPS cumulative high school grade point average, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. the Louisiana Board of Regents must determine that you have in fact completed the TOPS core curriculum courses;

2. the Louisiana Board of Regents must determine that your TOPS cumulative high school grade point average based on the TOPS core curriculum meets the statutory requirements;

3. you must be a Louisiana resident as defined by the Louisiana Board of Regents;

4. you must be accepted for enrollment by an eligible Louisiana postsecondary institution and be registered as a full-time undergraduate student no later than the next semester following the first anniversary of your graduation from high school;

5. you must apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

6. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Board of Regents."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3129.7 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003), LR 29:882 (June 2003), LR 30:1166 (June 2004), LR 35:235 (February 2009), LR 44:

Chapter 18. Chafee Educational and Training Voucher Program

§1801. General Provisions

A. The Chafee Educational and Training Voucher (ETV) Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a

Memorandum of Understanding by and between the Louisiana Board of Regents (the board) and the Department of Children and Family Services (DCFS).

B. Description, History and Purpose. The Chafee ETV Program is administered in accordance with the federal Chafee Act, 42 U.S.C.A. 677 et seq., to provide grants to certain students who have been in the foster care system to pursue postsecondary education or training to enter the workforce.

C. Effective Date. The Chafee ETV Program will be administered by LOSFA beginning with the 2010-2011 academic year.

D. Eligible Semesters/Terms. The Chafee ETV is available to students throughout the academic year.

E. Award Amount. A Chafee ETV recipient may receive up to \$5,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2547 (November 2010), amended LR 44:

§1803. 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.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, the spring semester or term, and concludes with the completion of the summer session, if applicable.

Educational and Training Voucher—a federal grant that is available to certain students who have been in the foster care system based on the student's financial need.

Foster Care System—a protective service administered by the Louisiana Department of Children and Family Services or by a similar agency in another state, for children who must live apart from their parents due to neglect, abuse, or special family circumstances which requires that the child be cared for outside the family home.

Institution of Higher Education—a school that:

- a. is eligible to receive funds under Title IV of the Higher Education Act of 1965; and
- b. awards a bachelor's degree; or
- c. provides a program of study that is at least 2 years long in which a student can earn credit toward a bachelor's degree; or
- d. provides not less than one year of training towards gainful employment; or
- e. provides vocational training for gainful employment and has been in existence for at least two years.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the responsibility for the child's general welfare until he reaches the age of majority, subject to any residual rights possessed by the child's parents. It shall include, but not necessarily be limited to, the rights and responsibilities of legal custody as established in the Louisiana Children's Code.

Postsecondary Education—any educational program at an institution of higher education which admits as regular students those individuals with a high school diploma or equivalent, or admits as regular students persons who are beyond the age of compulsory school attendance, including, but not limited to, academic programs leading to an associate or baccalaureate, graduate or professional degree, or training which leads to a skill, occupational, or technical certificate or degree.

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a Chafee ETV recipient will be enrolled when receiving the ETV for measuring a student's progress in his or her educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), repromulgated LR 44:

§1805. Eligibility

A. To establish eligibility, a student must:

1. be ages 16 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and
2. be in the foster care system, or aged out of the foster care system, or was under legal guardianship, or was in the foster care system or under legal guardianship and was adopted after age 16; and
3. be enrolled in postsecondary education; and
4. annually complete the free application for federal student aid.

B. To continue to receive Chafee ETV, a student must:

1. not have attained the age of 21, or the age of 23 if the student was receiving a Chafee ETV at the age of 21 and received the Chafee ETV continuously; and
2. be making satisfactory academic progress in his program of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), amended LR 40:52 (January 2014), LR 44:

§1807. Eligibility of Institutions of Higher Education

A. Institutions of Higher Education Eligible to Participate

1. Louisiana public colleges and universities are authorized to participate in the Chafee ETV Program.
2. Regionally accredited private colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in the Chafee ETV Program. As of June 2010, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Baptist Theological Seminary, Our Lady of the Lake College, The University of Holy Cross, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.
3. Louisiana proprietary schools licensed pursuant to Chapter 24-A of Title 17 of the Revised Statutes are authorized to participate in the Chafee ETV Program.
4. Any other institution of learning that is an institution of higher education.

B. Audits. Institutions of higher education that participate in the Chafee ETV Program grant LOSFA, the Louisiana legislative auditor, and the Louisiana Department of Children and Family Services the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), amended LR 44:

§1809. Responsibilities of Participating Institutions of Higher Education

A. Preliminary Eligibility Determination

1. Institutions of higher education must verify the student's age.

2. Institutions of higher education must determine whether the student is or was prior to age 18 an orphan or ward of the court in accordance with procedures established by the postsecondary institution for verifying information reported by the student on the Free Application for Federal Student Aid.

3. If the school determines that the student is an orphan or ward of the court in accordance with its procedures and this Section, it shall provide to LOSFA the student's name, social security number, and current address.

B. Continuing Eligibility

1. Institutions of higher education must verify the student is making satisfactory academic progress.

2. If a prior recipient is making satisfactory academic progress, it shall provide to LOSFA the student's name, Social Security number, and current address.

C. Award Amount Determination

1. Institutions of higher education will determine the student's Chafee ETV amount based upon his financial need in accordance with the Higher Education Act of 1965, as amended, and will report that award amount to LOSFA.

2. Institutions of higher education shall provide students the opportunity to appeal the amount of the Chafee ETV amount if the award to the student is less than \$5,000. Such appeals shall be conducted in accordance with the institution of higher education's procedures for appealing Title IV student aid eligibility. Immediately upon receipt of an appeal, the institution of higher education shall notify LOSFA of the appeal, the student's name, and the reason for awarding less than the full grant amount. In the event the student is not satisfied with the school's final decision on the appeal, the institution of higher education shall advise the student that he may appeal the institution of higher education's decision to the Department of Children and Family Services.

D. Certification of Student Data

1. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, an institution of higher education shall report the following data:

- a. admission and enrollment; and
- b. semester hours attempted; and
- c. semester hours earned; and
- d. semester quality points earned; and

e. resignation from the institution or withdrawal from all courses.

E. Program Billing

1. If the institution of higher education operates on a semester or term basis, it shall divide the student's annual Chafee ETV amount by the number of semester/terms the student will be attending and it shall bill LOSFA for the resulting amount at the beginning of each semester or term the student attends.

2. If the institution of higher education operates on a basis other than semester or term, it shall bill LOSFA for one quarter of the student's Chafee grant amount on September 1, December 1, March 1, and June 1, if the student's program of study is at least one full year. If the student's program of study is less than one full year, the school will divide the Chafee ETV amount by the number of billing dates encompassed by that program and bill LOSFA the resulting amount.

3. Submission of a bill for a student is certification by the post-secondary institution that the student is enrolled at the institution and has maintained satisfactory academic progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), repromulgated LR 44:

§1813. Responsibilities of the Louisiana Department of Children and Family Services (DCFS)

A. DCFS shall verify that a student:

1. was in the foster care system, or aged out of the foster care system; or

2. was under legal guardianship; or

3. was in the foster care system or under legal guardianship and was adopted after age 16; or

4. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

B. DCFS will notify LOSFA of any students who are eligible to receive a Chafee ETV and for whom LOSFA did not previously request verification in accordance with §1817.A, including those students who may be attending school in a state other than Louisiana.

C. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, DCFS shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), amended LR 44:

§1817. Responsibilities of LOSFA

A. LOSFA shall:

1. verify a student's eligibility to receive a Chafee ETV with DCFS;

2. pay program funds to the eligible post-secondary institution in which the student is enrolled;

3. maintain a secure database of all information collected on recipients and former recipients, including

name, address, social security number, program of study, name of the institution(s) the recipient attended, and amounts disbursed;

4. notify DCFS immediately if projections indicate that sufficient funds will not be available to pay all eligible students the amount originally awarded to those students at the beginning of the academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2550 (November 2010), amended LR 44:

§1819. Responsibilities of the Louisiana Board of Regents

A. The board shall promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act, in consultation with DCFS and in accordance with a memorandum of understanding entered into by and between the board/LOSFA and DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2550 (November 2010), amended LR 44:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1901. Eligibility of Post-Secondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Taylor Opportunity Program for Students (TOPS), TOPS-Tech, TOPS-Tech Early Start, Rockefeller State Wildlife Scholarship, Louisiana Go Grant, and other funded state and federal scholarship, grant and loan programs administered by the Louisiana Board of Regents (the board) and the Louisiana Office of Student Financial Assistance (LOSFA) as applicable.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS, TOPS-Tech, TOPS Tech Early Start Award, Louisiana Go Grant, and other funded state and federal scholarship, grant and loan programs administered by the Louisiana Board of Regents (the board) and the Louisiana Office of Student Financial Assistance (LOSFA) as applicable. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, The University of Holy Cross, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

C. Eligible Louisiana proprietary and cosmetology schools are authorized to participate in TOPS for all awards and TOPS Tech Early Start Awards.

D. Out-of-state colleges and universities may participate in TOPS if all the conditions of §703.I are met.

E. Approved training providers may participate in the TOPS Tech Early Start Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, 17:3046 et seq., R.S. 17:3129.7, R.S. 17:5001 et seq. and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111, 3114 (December 2005), LR 35:235 (February 2009), LR 35:1490 (August 2009), LR 36:2857 (December 2010), LR 41:376 (February 2015), LR 44:

§1903. Responsibilities of Post-Secondary Institutions

A. Certification of Student Data

1. Through the summer term of 2002, upon request by the board, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

- a. admission and full-time undergraduate enrollment; and
- b. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and
- c. enrollment in math or chemistry as a major while pursuing teacher certification; and
- d. graduate or undergraduate enrollment in wildlife forestry or marine science; and
- e. cumulative college grade point average; and
- f. cumulative college credit hours earned; and
- g. academic year hours earned.

2. Effective the fall semester of 2002, upon request by the board, and for the purpose of determining an applicant's eligibility for a program award, an institution shall report the following student data:

- a. admission and full-time undergraduate enrollment; and
- b. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and
- c. enrollment in math or chemistry as a major while pursuing teacher certification; and
- d. graduate or undergraduate enrollment in wildlife forestry or marine science; and
- e. semester hours attempted; and
- f. semester hours earned; and
- g. semester quality points earned; and
- h. resignation from the institution or withdrawal from all courses.

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

- a. a student's completion of a program of study;
- b. through the 2015-2016 academic year (TOPS) whether the program of study was academic or technical;
- c. type of credential (degree, certificate, diploma, baccalaureate);
- d. semester of completion; and
- e. beginning with the 2015-2016 academic year (TOPS):

- i. the CIP code for the program of study in which the student is enrolled;
- ii. the degree level code for the program of study in which the student is enrolled;
- iii. the increment key assigned by the board that provides each program a unique key for the program of study in which the student is enrolled.

B. Program Billing. Each term, institutions shall bill the board for students who are eligible for payments under state and federal scholarship, grant and loan programs

administered by the board and LOSFA and who have enrolled at the institution in accordance with the following terms and conditions:

1.a. through the 2016-2017 academic year (college), institutions may only bill for students who have been certified by the board as eligible for a TOPS Award and, in the case of the TOPS Tech Award, enrolled in an eligible technical program of study; and

b. beginning with the 2017-2018 academic year (college), institutions may bill for students who have been certified by the board as eligible for a TOPS Opportunity, Performance, or Honors Award and may only bill for a TOPS-Tech award if the student is enrolled in an associate's degree or other shorter-term training and education program that is aligned to state workforce priorities as determined by the Louisiana Board of Regents and the Louisiana Workforce Investment Council at that institution;

2. for scholarship, grant or loan programs that require full-time enrollment, institutions will bill the board based on their certification that the recipient is enrolled full-time, as defined in §301:

a. at eligible colleges and universities, except cosmetology and proprietary schools, at the end of the fourteenth class day or later for semester schools and the ninth class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

b. at eligible cosmetology or proprietary schools, on a billing date for students who were enrolled full time on that date. The billing dates are September 1, December 1, March 1 and June 1. Institutions shall not bill for students who are enrolled less than full-time on a billing date, unless the student qualifies for payment for less than full-time enrollment as provided in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

3. in the event the student's total aid, including vocational rehabilitation awards, exceeds the cost of attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award

shall be reduced by the amount of any remaining over award;

4. annually, all institutions are required to provide the board a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule, including the tuition amount, as those fees will appear on a student's fee bill;

5. certify that the institution will reimburse the board for any award funds incorrectly disbursed to ineligible students;

6. through the 2016-2017 academic year (college), upon the school's certification that a recipient of a TOPS Opportunity, Performance or Honors Award is enrolled full-time, institutions shall bill for and the board will reimburse the institution for each such recipient as follows:

a. public colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities or an out-of-state college or university if all of the conditions of §703.I are met may bill for students enrolled in academic programs an amount up to the weighted average award amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the average award amount (TOPS-Tech), as defined in §301;

e. for recipients of the Performance and Honors Awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

f. for students enrolled in a public professional school, institutions may bill LASFAC an amount equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less;

g. for students enrolled in a LAICU professional school, institutions may charge the weighted average award amount;

h. for students enrolled in graduate school, institutions may bill LASFAC an amount equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less;

i. for students enrolled in eligible cosmetology and proprietary schools, institutions may bill for an amount of up to one quarter of the annual *average award amount (TOPS-Tech)*, as defined in §301;

7. through the 2016-2017 academic year (college), upon the school's certification that a recipient of a TOPS-Tech Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public colleges and universities that do not offer an academic undergraduate degree at the baccalaureate level may bill for an amount up to the *tuition* for that institution, as defined in §301;

b. all other eligible colleges and universities, except eligible cosmetology or proprietary schools, may bill for an

amount up to the *average award amount (TOPS-Tech)*, as defined in §301;

c. eligible cosmetology and proprietary schools may bill for an amount of up to one quarter of the annual *average award amount (TOPS-Tech)*, as defined in §301;

8. beginning in the 2017-2018 academic year (college), upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for an amount equal to the TOPS Award Amount as defined in §301 and as determined and published by the board for the school and the student's program of study, if applicable, and the board shall reimburse the institution for each such recipient.

9. upon the school's certification that a recipient of a GO-Youth ChalleNGe Program Grant is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public community colleges and Louisiana Technical College may bill for an amount up to the tuition for that institution, as defined in §301; and

b. regionally accredited independent colleges or universities in the state that are members of LAICU may bill up to an amount equal to the award amount authorized for TOPS-Tech students attending LAICU institutions during the program year (non-academic program);

10. unless otherwise directed by the student, before applying a TOPS Award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C.25A is paid from a source other than the TOPS Award, the institution shall apply the TOPS Award toward payment of expenses other than tuition which are described in the term cost of attendance as that term is defined in 20 U.S.C. 10871l, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C.25A;

11.a. upon the school's certification that a student who is eligible for a TOPS-Tech Early Start Award is enrolled in an industry-based occupational or vocational education credential program in a top demand occupation, institutions shall bill for and the board will pay the institution for each such recipient according to the following schedule.

Credit Hours	Payment
1	\$50
2	\$100
3	\$150
4	\$200
5	\$250
6	\$300

b. the maximum that may be billed is \$300 per semester and \$600 per academic year (TOPS).

c. institutions may not bill for summer semesters or sessions.

12.a. beginning with the spring semester of 2014 through the Spring semester of 2016, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;

ii. "TOPS Award Amount" as defined in Section 301; and

iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full-time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:

a. wildlife, forestry or marine science; or

b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

3. for Tuition Payment Program for Medical School Students:

a. verify enrollment at one of the Louisiana State University Health Sciences Center medical schools or at the Tulane University School of Medicine; and

b. verify the recipient is in good standing; and

c. verify the student has continued to make satisfactory progress towards a medical degree in a primary care field;

4. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by the board. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and Tuition Payment Program for Medical School Students must be released to eligible recipients within 30 days of receipt by the school or be returned to the board;

5. for TOPS-Tech Early Start Awards:

a. verify the student is eligible and enrolled in a course in an Industry Based Occupational or Vocational Education Credential Program in a top demand occupation; and

b. verify the student is in good standing;

6. for TOPS Awards at cosmetology or proprietary schools:

a. verify the student has continued to make steady academic progress; and

b. verify the student is enrolled full time on the billing date.

D. Reporting of Academic Data. At the conclusion of each term, quarter or semester, the institution will complete and return to the board a college academic grade report including, but not limited to, the following data elements:

1. academic year hours earned; and
2. cumulative hours earned; and
3. cumulative grade point average; and
4. upon graduation, degree date and type and name of degree.

E. **Records Retention.** Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to the board and the Louisiana Legislative Auditor.

F. **Qualified Summer Session**

1. Except for students eligible for TOPS payments while enrolled in an eligible TOPS Tech program of study, students may request payment for a summer session if eligible under these rules and subject to the availability of program funding. Each student requesting payment must sign a form provided by LOSFA:

- a. requesting payment for the summer session from the student's remaining TOPS eligibility;
- b. stating the student understands that the use of the TOPS award for the summer session reduces the student's TOPS eligibility by one semester or term;
- c. stating the student understands that the hours earned cannot be used to meet the TOPS requirement to earn at least 24 hours each academic year; and
- d. stating the student understands that the grades earned during the summer session will be included in the student's cumulative grade point average.

2. The institution's submission of a payment request for a student's enrollment in a summer session will constitute certification of: the student's eligibility for a TOPS Award payment for the summer session; receipt from the student of a signed written acknowledgment and consent that each payment will consume one semester of eligibility; and the student's enrollment in the summer session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), LR 44:

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 Board of Regents (the board) 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 the board beginning with the 2010-2011 federal fiscal year.

D. **Award Amount**

1. For the 2011 calendar year, twelve prosecutors will receive awards of \$5,000 each and 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.

2. Beginning in the 2012 calendar year, the number of awards and the amount of each grant shall be recalculated based on the amount of the federal grant allocated to Louisiana by the United States Department of Justice. Each calendar year's awards shall be allocated so that the total amount awarded to prosecutors is equal to the total amount awarded to public defenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011), amended LR 38:1585 (July 2012), LR 44:

§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. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011), repromulgated LR 44:

§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;

6. submit a completed John R. Justice Student Loan Program service agreement to LOSFA. If an applicant is not selected to receive an award, the agreement will be null and void.

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.

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. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1387 (May 2011), amended LR 42:46 (January 2016), LR 44:

§2007. Applicable Deadlines

A. Application Deadline

1. Applicants must complete and submit the on-line application each calendar year no later than April 30.

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 grants.

3. In the event there are insufficient applications to award all grants, a second deadline will be announced.

4. In the event all grants cannot be awarded after a second application deadline has passed, LOSFA shall inform the board and distribute the available remaining funds as directed by the board.

B. Documentation Deadline. An applicant from whom documentation is requested must provide the required documentation within 20 days from the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011), amended LR 38:1585 (July 2012), LR 42:47 (January 2016), LR 44:

§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. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011), amended LR 44:

§2013. Responsibilities of the Louisiana Board of Regents

A. The board 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.

3. Approve the number of awards and the amount of each grant each year based upon the funding allocated to Louisiana by the United States Department of Justice. The

board shall ensure that 50 percent of the funds awarded are allocated for awards to prosecutors and 50 percent of the funds awarded are allocated for awards to public defenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 37:1388 (May 2011), amended LR 38:1586 (July 2012), LR 44:

Chapter 21. Miscellaneous Provisions and Exceptions
§2101. Academic Suspension of Awards and Reinstatement

A. Students denied an award for their failure to maintain the required cumulative grade point average or for their failure to maintain steady academic progress, as defined in §301, may be reinstated upon attainment of the required cumulative grade point average, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated as the Opportunity Award are ineligible for annual stipends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:646 (April 1998), amended LR 24:1915 (October 1998), LR 26:68 (January 2000), repromulgated LR 27:1866 (November 2001), amended LR 44:

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a first-time freshman as defined in §301, unless granted an exception for cause by the Louisiana Board of Regents (the board), in an eligible college or university defined in §301. Initial enrollment requirements specific to TOPS are defined at §703.A.4, for TOPS-Tech at §803.A and for Louisiana GO-Youth Challenge Program at §1505.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two-year and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by the board.

C. Less Than Full-Time Attendance. The board will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, the TOPS-Tech Award, the Rockefeller State Wildlife Scholarship and the Louisiana GO-Youth Challenge Program, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines full-time as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

a. *Course of Study*—for the purposes of this paragraph is a program:

i. established by the postsecondary institution leading to an associate's degree; or

ii. with course work specified by school of study at a postsecondary institution (e.g., business, architecture, mass communications, art and design) required for admission to that school for further studies to earn a baccalaureate degree.

b. *Clinical Program*—for the purposes of this Paragraph means student teaching, practicum courses, or clinic based experiences required to earn a baccalaureate degree.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year (TOPS), the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year (TOPS), the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a returning student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

2. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible by LOSFA for an exception provided in §2103.E.11.a.ii, recipient may appeal in accordance with §2109 of these rules.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from

the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to the equivalent of one academic year (college) per pregnancy.

2. Physical Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified medical professional confirming the student/recipient's rehabilitation, and the beginning and ending dates of the rehabilitation.

c. Maximum length of exception—up to four consecutive semesters (six consecutive quarters) per occurrence.

3. Substance Abuse Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a substance abuse program.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional confirming the student's rehabilitation and the beginning and ending dates of the rehabilitation.

c. Maximum length of exception—up to two consecutive semesters (three consecutive quarters). This exception shall be available to a student only one time.

4.a. Temporary Disability—Student

i. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form including official college transcripts, the reason for the disability, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

(b). a written statement from a qualified professional of the existence of a temporary disability, the dates of treatment, and opinions as to the impact of the disability on the student's ability to attend school.

iii. Maximum length of exception—up to four consecutive semesters (six consecutive quarters).

b. Temporary Disability—Student/Recipient's Care of Immediate Family Member

i.(a). Definition. The student/recipient is providing continuous care to his/her immediate family member due to an accident, illness, injury or required surgery.

(b). An immediate family member is his/her spouse, dependent, parent, stepparent, custodian, or grandparent.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form including official college transcripts, the reason for the disability, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

(b). a written statement from a qualified professional of the existence of a temporary disability of the immediate family member, and the beginning and ending dates of the doctor's care; and

(c). a statement from a family member or a qualified professional confirming the care given by the student.

iii. Maximum length of exception—up to a maximum of two consecutive semesters (three consecutive quarters).

5. Permanent Disability

a. Definition. The student/recipient is permanently disabled in a manner that prevents the student from attending classes on a full-time basis.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, a description of the disability, the reason for the disability, the reason(s) the disability restricts class attendance to less than full time; and

ii. a written statement from a qualified professional stating the diagnosis of and prognosis for the disability, stating that the disability is permanent, and opining why the disability restricts the student/recipient from attending classes full time.

c. Maximum Length of Exception. Up to the equivalent of eight full time semesters of post-secondary education in part time semesters.

6. Exceptional Educational Opportunity

a. Definition. The student/recipient is enrolled in an internship, residency, cooperative work, or work/study program or a similar program that is related to the student's major or otherwise has an opportunity not specifically sponsored by the school attended by the student that, in the opinion of the student's academic dean, will enhance the student's education. Participation in one of the programs does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from the college/school official that the applicant is a student at the school/college and that the program is offered or sponsored by the college/school, or a statement from the dean of the college or the dean's designee that the program is related to the student's major and will enhance the student's education. The statements must include the dates of leave of absence, the

semester(s) or number of days involved, the beginning and ending dates of the program.

c. Maximum length of exception—up to four semesters (six consecutive quarters) or required program of study.

7. Religious Commitment

a. Definition. The student/recipient is a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of the religious obligation; and

ii. a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum length of exception—up to five consecutive semesters (eight consecutive quarters).

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, custodian, dependent, sister or brother, step sibling, grandparent or step grandparent dies.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Maximum Length of Exception. Up to one semester or two quarters per death.

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves or National Guard and is called on active duty status or is performing emergency state service with the National Guard or enlists or reenlists and enters on active duty as a member of the regular United States Armed Forces.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates); and

ii. a written certification from the military including the dates and location of active duty; or

iii. a copy of the military orders or other military documents confirming military service.

c. Maximum length of exception—up to the length of the required active duty service period.

10. Transfer—Selective Enrollment Program

a. Definition. A student/recipient who completed his or her program requirements for transfer to a selective enrollment program.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts and the semester(s) affected; and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient has or will complete his or her course requirements for transfer to a selective enrollment program.

c. Maximum Length of Exception. Two semesters or three quarters.

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). financial conditions related to a student's ability to meet his or her educational expenses are not a justified reason for failure to meet the hours or continuous enrollment requirement, because TOPS is a merit, rather than need-based award;

(b). dropping a course, failing a course, or withdrawing from school to protect the student's grade point average or because of difficulty with a course or difficulty arranging tutoring;

(c). not being aware of or understanding the requirements;

(d). assumption that advanced standing, or correspondence course work credited outside the academic year would be applied to the hours requirement;

(e). differing scholarship or award requirements for other programs, such as NCAA full-time enrollment requirements;

(f). voluntary withdrawal from school to move out-of-state or pursue other interests or activities;

(g). claims of receipt of advice that is contrary to these rules, public information promulgated by LOSFA, award letters, and the rights and responsibilities document that detail the requirements for full-time continuous enrollment;

(h). failure to provide or respond to a request for documentation within 30 days of the date of the request, unless additional time is requested in writing, LOSFA grants the request, and the requested documentation is provided within the additional time granted;

(i). an involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations;

(j). a suspension or expulsion for misconduct;

(k). an inability to register because of failure to satisfy financial obligations.

ii. All other situations will be assessed at the discretion of LOSFA and subject to appeal to the board.

b. Certification Requirement. Submit a completed exception request form including a sworn affidavit from the student detailing the circumstances and including the official

college transcripts and documentation necessary to support the request for reinstatement.

c. Maximum length of exception—up to the number of semesters or quarters determined to be supported by the request for exception.

F. Students who are granted an exception based on military service in accordance with Paragraph E.9 above and who desire to enroll as a part time student in an eligible postsecondary institution while on active duty shall be eligible on request for TOPS payment for such enrollment. Any payment for part time attendance under this Subsection shall count towards the student's maximum eligibility for up to the equivalent of eight full time semesters of postsecondary education in part time and full time semesters.

G. Natural Disaster Exceptions

1. For the purposes of this Subsection, *displaced students* are TOPS recipients and students eligible for TOPS and:

a. on August 26, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a). University of New Orleans;
- (b). Dillard University;
- (c). Delgado Community College;
- (d). Nunez Community College;
- (e). Louisiana State University Health Sciences Center at New Orleans;
- (f). Southern University at New Orleans;
- (g). Loyola University;
- (h). New Orleans Baptist Theological Seminary;
- (i). University of Holy Cross (formerly Our

Lady of Holy Cross College);

- (j). Tulane University;
- (k). Xavier University;
- (l). St. Josephs Seminary College; or
- (m). Louisiana Technical College:
 - (i). Jefferson Campus;
 - (ii). Sidney N. Collier Campus;
 - (iii). Slidell Campus;
 - (iv). Sullivan Campus;
 - (v). West Jefferson Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

b. on September 23, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a). SOWELA Technical Community College;
- (b). Louisiana Technical College:
 - (i). Gulf Area Campus;
 - (ii). Morgan Smith Campus;
 - (iii). Lamar Salter Campus;
 - (iv). Oakdale Campus; or
 - (v). Sabine Valley Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

2. For the purposes of this Subsection, *home of record* is:

a. the domiciliary address of a dependent student's parent or court ordered custodian; or

b. the domiciliary address of an independent student.

3. For the purposes of this subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

4.a. For the 2005-2006 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (TOPS).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part- or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (TOPS) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (TOPS), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full-time students by the deadline or to enroll as full-time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (TOPS), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. The student should file the application for exception as soon as it is known that the student will not meet one or more of the continuing eligibility requirements to ensure the earliest reinstatement of the award. The student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

ii. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first

fall, winter or spring semester or term immediately following the exception ending date.

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full-time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (TOPS).

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception—up to two consecutive semesters (three consecutive quarters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq. and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), LR 44:

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for discharge by cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave

a. Definition. The recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum length of deferment—up to one year per child.

2. Physical Rehabilitation Program

a. Definition. The recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form including the reason for the rehabilitation, dates of absence from work, the number of days involved, and any other information or documents; and

ii. a written statement from a qualified medical professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Deferment. Up to two years per occurrence.

3. Substance Abuse Rehabilitation Program

a. Definition. The recipient is receiving rehabilitation in a substance abuse program prescribed by a qualified professional and administered by a qualified professional.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form, the reason for the rehabilitation, dates of absence from work, the number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Deferment. Up to one year. This deferment shall be available to a recipient only one time.

4. Temporary Disability

a. Definition. The recipient is recovering from an accident, injury, illness or required surgery, or the recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or custodian due to an accident, illness, injury or required surgery.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form, the reason for the disability, dates of absence from work, the number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional of the existence and of the accident, injury, illness or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the

recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the recipient's ability to work; and

iii. if a temporary disability of another, a statement from the family member or a qualified professional confirming the care given by the recipient.

c. Maximum Length of Deferment. Up to two years for recipient; up to a maximum of one year for care of a disabled dependent, spouse, parent, or custodian.

5. Religious Commitment

a. Definition. The recipient is a member of a religious group that requires the recipient to perform certain activities or obligations which necessitate taking a leave of absence from work.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form, the number of days involved, and the length of the religious obligation; and

ii. a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum Length of Deferment. Up to four consecutive semesters (six consecutive quarters).

6. Military Service

a. Definition. The recipient is in the United States Armed Forces Reserves and is called on active duty status or is performing emergency state service with the National Guard.

b. Certification Requirements. The recipient must submit:

i. a completed deferment request form and the length of duty (beginning and ending dates); and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty; or

iii. a certified copy of the military orders.

c. Maximum Length of Deferment. Up to the length of the required active duty service period.

7. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher; or

8. recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

9. Natural Disaster Deferments

a. For the purposes of this Subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and:

i. on August 26, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;

(g). Tangipahoa; or

(h). Washington; or

ii. on September 23, 2005, whose home of record was one of the following Louisiana parishes:

(a). Acadia;

(b). Allen;

(c). Beauregard;

(d). Calcasieu;

(e). Cameron;

(f). Iberia;

(g). Jefferson Davis;

(h). Lafayette;

(i). St. Mary;

(j). Terrebonne; or

(k). Vermilion.

b. For the purposes of this Subsection, *home of record* is:

i. the domiciliary address of a dependent student's parent or court ordered custodian; or

ii. the domiciliary address of an independent student.

c. For the purposes of this Subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

d. The loan payments for displaced students are deferred and accrual of interest is suspended from August 26, 2005 through August 31, 2006.

e. For the period of August 26, 2005 through August 31, 2006, recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and who are not displaced students, but who are unable to repay their loan during the academic year (college) due to the effects of a natural disaster, may submit a request for deferment of payments and suspension of accrual of interest in accordance with §2105.D, based on one of the circumstances listed in §2103.B.1 through 8 or the following circumstance.

i. The effects of a natural disaster prevented the student/recipient from making payments during the period of August 26, 2005, through August 31, 2006.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the repayment requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Through August 31, 2006.

C. A recipient who receives a deferment under §2105.B.7 and who is not able to enroll full-time due to a circumstance listed in §2103.E may request an exception to the full-time enrollment requirement of the deferment based on that circumstance. The maximum length of the

continuation of the exception shall be the maximum length of exception provided by §2103.E.

D. Procedure for Requesting a Deferment

1. The recipient should complete and submit an application for a deferment, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. The recipient must submit the application for deferment no later than three months after the date of the notice of repayment. The deadline for filing the request shall be prominently displayed on the notice of repayment. If the applicant for a deferment is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

2. If determined eligible for a deferment, the recipient will be notified of the length of the deferment and of any conditions of the deferment.

E. Conditions of Deferment

1. Deferments may be subject to the following conditions:

- a. related to the particular circumstances for which the deferment is granted, including, but not limited to, providing proof of enrollment;
- b. agreement to give notice that the condition or circumstance that warranted the deferment has ceased;
- c. agreement to a repayment schedule commencing on expiration of the deferment;
- d. agreement to acknowledge debt;
- e. agreement that during the deferment period, prescription will be interrupted (meaning the period of time within which the office has to enforce the promissory note will not continue to accrue); and/or
- f. agreement to start repayment at the end of the deferment.

2. Conditions for deferments must be included in the notice of deferment.

F. The recipient must sign a written acknowledgment of receipt of the notice of deferment and acceptance of all conditions. The recipient must return the signed acknowledgment and acceptance within 30 days of the date of the notice, otherwise the deferment is void and repayment shall commence.

G. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient; or
2. complete and permanent disability of the recipient which precludes the recipient from gainful employment; or
3. upon a determination by the board that the remaining unpaid balance is \$25 or less.

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

- a. the recipient is receiving federal or state public assistance;

- b. the recipient's total gross yearly income does not exceed the current federal poverty level for his/her state;

- c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

- d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3042.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:442 (March 2007), LR 44:

§2107. Funding and Fees

A. Limitation of Terms Funded. Routine funding for all scholarship and grant programs is limited to the fall, winter and spring school terms.

B. Less than Full-Time Attendance. The board will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards for less than full-time enrollment provided that the student meets all other eligibility criteria and the requirements of §2103.C.

C. Insufficient Funds Appropriated

1. All board administered state scholarship and grant program awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS opportunity, performance, honors and TECH Awards for a given academic year, each student's award, including stipends for TOPS performance and honors awards, shall be reduced by an equal percentage on a pro rata basis.

3. A student whose award is reduced pursuant to this section shall not be required to accept payment of his award or enroll or maintain continuous enrollment in an eligible college or university during the time period during which there is a funding shortfall. A student who exercises this option:

- a. shall be eligible to receive his remaining TOPS award upon enrollment in an eligible college or university, provided the student meets the continuation requirements for his award except as specifically set forth in this section; and

- b. shall exhaust all award eligibility within five years of the reduction of his award, provided that if the student requests and is granted an exception to the requirement to enroll full time or to maintain continuous enrollment in school in accordance with §1901 of these rules, the time period within which the student must exhaust his award eligibility shall be extended by the number of semesters/terms for which he receives an exception.

4. The provisions of this Sections shall not apply to the stipend for books and other instructional materials provided to persons serving in the Louisiana National Guard as set forth in §701.E.4.a and b of these rules or to the TOPS Tech Early Start Program.

D. Stop Payment of Uncleared Checks. The board may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012), LR 44:

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

1. A person aggrieved by an adverse decision of LOSFA under §2103.E.11.a.ii may appeal the decision in accordance with the procedures provided in this Section.

2. Appeals are made to the Louisiana Board of Regents (the board).

3. Decisions of the board are not subject to appeal and are final actions.

B. Notice of Adverse Decision

1. Notice of an adverse decision by LOSFA under §2103.E.11.a.ii must be transmitted in writing to the applicant or participant. The notice must state with reasonable specificity the decision and the reason for the decision, state that the decision may be appealed, and set forth the procedure for submission of an appeal.

C. Petition of Appeal

1. A petition of appeal must be in writing and filed within 30 days of the date of the notice of the decision.

2. The petition of appeal must include:

a. a sworn affidavit from the petitioner setting forth the basis of the appeal, including the specific reasons that LOSFA's decision is incorrect, and all facts supporting the appeal;

b. copies of all documents, including written statements by others, if any, that support the appeal;

c. official transcripts from the school/colleges attended during the periods in question; and

d. if the petitioner desires to make an oral presentation and/or argument, the petitioner must include in the petition for appeal:

i. a request to make oral presentation and/or argument;

ii. the name of each person who will speak and a brief summary of what each person will say; and

iii. the reasons why presentation of the appeal in writing is not sufficient and that an oral presentation and/or argument is justified.

3. The petitioner is not required to include documents in the petition of appeal which were forwarded with previous correspondence regarding the appeal.

4. The petition of appeal must be addressed to the Louisiana Board of Regents, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 602 North Fifth Street, Galvez State Office Building, Sixth Floor, Baton Rouge, LA.

5. Oral Presentations and/or Arguments

a. The board may allow presentations and/or arguments when the board determines that such extraordinary procedures are justified based on information submitted by the petitioner.

b. LOSFA shall have the right to question the appellant and each person making an oral presentation on behalf of the appellant.

c. The Louisiana Board of Regents' chairman may limit the time available to the appellant to make an oral presentation.

D. Appellate Procedure

1. After receipt of the Petition of Appeal, LOSFA will review the petition of appeal and determine whether the matters included in it are sufficient to change LOSFA's adverse decision. If, based upon new information submitted, LOSFA reverses its decision and approves the appeal, the petitioner will be notified in writing and no further action will be taken on the petition.

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal) to the Louisiana Office of Student Financial Assistance (LOSFA) Advisory Board.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the LOSFA Advisory Board.

4. Pending a decision by the LOSFA Advisory Board, no further action will be taken in the matter by LOSFA.

5. The LOSFA Advisory Board will review the appellate file and make one of the following recommendations to the board:

a. recommend that LOSFA's decision be upheld; or

b. recommend that LOSFA's decision be reversed; or

c. remand the appellate file to LOSFA for further specified action(s); or d. remand the appellate file to the board without recommendation.

6. The LOSFA Advisory Board will forward the appellate file and its recommendation to the board. The board will review the recommendations of the LOSFA Advisory Board and the appellate file.

7. The board may adopt the recommendations of the LOSFA Advisory Board or make a contrary decision approving or reversing LOSFA's decision, or remanding the matter to LOSFA for further specified actions.

8. Remanded matters will be expeditiously processed by LOSFA and returned to the board for a final decision.

9. A decision of the board to approve or reverse LOSFA's decision is final and is not subject to further review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:650 (April 1998), amended LR 24:1920 (October 1998), LR 26:1261 (June 2000),

repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002), LR 33:442 (March 2007), LR 44:

§2113. Revision of the Core Curricula

A. The board is authorized by law, subject to prior approval by BESE, to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course, including necessary changes to equivalencies and course names for advanced placement and International Baccalaureate® courses as prescribed by the College Board or the International Baccalaureate Foundation.

B. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the secondary programs of study contained in the *Louisiana Handbook for School Administrators* (LDE Bulletin 741).

C. Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by the board and such recommendations shall be submitted directly to the Louisiana Office of Student Financial Assistance, Attention: Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:1921 (October 1998), amended LR 27:1220 (August 2001), repromulgated LR 27:1871 (November 2001), amended LR 41:657 (April 2015), LR 44:

§2115. Procedures for Disabled Students and Exceptional Children

A. As provided for in §703.A.5.b.ii, a core curriculum course shall be waived for a student who is a disabled student or an exceptional child, as defined in §301, whose school certifies that it has the following documentation.

1. For a student claiming the status of a disabled student:

a. a written diagnosis from a person licensed or certified to diagnose the disability of the student, which diagnosis specifies the need for special accommodation by the student's high school; and

b. a written statement from the principal of the high school that a plan of accommodation under Section 504 of the Rehabilitation Act of 1973 ("504 Plan") has been established, and the high school was unable to provide the special accommodation, or, if the special accommodation was provided by the high school, the failure to complete the specified core curriculum course was due solely to the student's diagnosed disability.

2. For a student claiming the status of an exceptional child:

a. a written Individual Education Program (IEP) in accordance with R.S. 17:1941 et seq. and Louisiana Department of Education Bulletin 1706; and

b. a written statement from the principal of the high school that the failure to complete the specified core curriculum course was due solely to the student's exceptionality.

B. For disabled students graduating prior to the 1999-2000 high school academic year and who are requesting a waiver of a core curriculum course based upon their status as

a disabled student, those students must provide the documentation provided in §2115.A.1 above, however, those students need not establish the existence of a 504 Plan.

C. A school official must obtain the consent from the student's parent or legal guardian, as required by law, prior to the release of information concerning a student who is requesting a waiver of a core course by reason of that student being a disabled student or an exception child.

D. If a core curriculum course is waived based upon the determination that a student's disability or exceptionality, then the grade achieved for that course will not be included in the determination of the student's grade point average for purposes of qualifying for a TOPS Award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3026.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1795 (October 1999), repromulgated LR 27:1871 (November 2001), amended LR 44:

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281 of the 1997 Regular Session of the Louisiana Legislature and amended by Act 894 of the 2004 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The Tuition Payment Program for medical school students:

1. annually awards not more than 10 monetary loans to eligible students attending a medical school of the Louisiana State University Health Sciences Center and not more than five monetary loans to eligible students attending the Tulane University School of Medicine who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least five consecutive years in a rural or medically disadvantaged area in Louisiana designated by the Louisiana State University Health Sciences Center, acting jointly with the Tulane University School of Medicine, (hereinafter referred to as a "designated area"). When the individual receiving the award practices medicine in a designated area for five consecutive years as provided in these rules, the loans are forgiven in full;

2. was first funded for the 1998-99 award year;

3. the legislature's purpose for this program is to bring about an adequate supply of doctors of medicine who will engage in the general practice of medicine in the rural or medically disadvantaged areas of the state by inducing a sufficient number of the graduates from the Louisiana State University Health Sciences Center and the Tulane University School of Medicine to remain in or relocate to designated areas of Louisiana to practice their profession, thus affording adequate medical care to the people of Louisiana.

C. Award Amounts

1. Loans for students enrolled at one of the Louisiana State University Health Sciences Center medical schools shall be made in an amount not to exceed the full tuition and room and board amount for that school. Loans for students enrolled at the Tulane University School of Medicine shall be made in an amount not to exceed the tuition and room and board amount for a student enrolled at the most expensive medical school of the Louisiana State University Health Sciences Center.

2. Recipients may receive funding for each year of enrollment at an eligible medical school, until awarded a doctorate degree in medicine.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the *cost of attendance* as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) amended LR 25:2177 (November 1999), repromulgated LR 27:1872 (November 2001), amended LR 31:40 (January 2005), repromulgated LR 44:

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen; and
2. be a resident of Louisiana, as defined in §301 for at least two years prior to April 15 of the calendar year in which the award will be made; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA, whichever is applicable to the student, by April 15 of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999); and

4. be enrolled at one of the Louisiana State University Health Sciences Center medical schools or in the Tulane University School of Medicine as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

5. agree to the full time practice of the profession of medicine as a primary care physician in a designated area for at least five consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4, above; and

6. complete and submit such other documentary evidence as may be required by the Louisiana Board of Regents (the board) within the deadline specified; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 33:443 (March 2007), LR 44:

§2305. Application Process and Selection Criteria

A. The Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the board, no later than the date specified by the board:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the lists of applicants submitted by the Louisiana State University Health Sciences Center and the Tulane University School of Medicine, the board shall rank the applicants in order of merit and select no more than 10 individuals to receive the award in any one year to attend one of the Louisiana State University Health Sciences Center medical schools and no more than five individuals to receive the award in any one year to attend the Tulane University School of Medicine [hereinafter "recipient(s)"]. The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1872 (November 2001), amended LR 31:41 (January 2005), LR 44:

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the Louisiana State University Health Sciences Center or by the Tulane University School of Medicine, which are consistent in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the state legislature. Should the state legislature fail to appropriate sufficient funds in each year to provide for the amount of the award agreed to by the board and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this Section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087 11 for the

highest cost Louisiana State University Health Sciences Center medical school.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the board and shall not exceed the tuition and room and board charged at the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 31:41 (January 2005), LR 44:

§2309. Maintaining Eligibility

A. To continue receiving the tuition payment for medical school students, recipients must meet all of the following criteria:

1. have not graduated from medical school; and
2. be considered in good standing by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and
3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by the board, in a course of study leading to a degree in medicine; and
4. annually apply for federal and state student aid by completing the FAFSA or renewal FAFSA, whichever is applicable to the student, by the state deadline; and
5. have no criminal convictions, except for misdemeanor traffic violations.

B. Upon receiving a doctorate degree in medicine, an award recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("promissory note") as long as the recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The recipient shall notify The board of the place and duration of the recipient's residency program no later than the date the recipient receives a doctorate in medicine. The notice shall include an endorsement from the Louisiana State University Health Sciences Center or its designee or from the Tulane University School of Medicine or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The Louisiana State University Health Sciences Center or the Tulane University School of Medicine shall make available to the recipient a list of designated areas. The recipient shall identify the designated area in which the recipient intends to practice medicine and include this selection in the notice sent to the board. By July 30 of each year following receipt of a doctorate degree in medicine, the recipient shall notify the board of the recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the recipient is engaged that the recipient is making satisfactory progress in the program. The recipient shall notify the board in writing of the completion of the residency program and

the date the recipient will initiate practice in a designated area. Each year thereafter, on the anniversary of the date the recipient enters a primary care practice in a designated area, the recipient shall send a written confirmation to the board that the recipient has practiced medicine during that year as required under the terms of the promissory note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the recipient has practiced in a designated area. Failure of the recipient to send any of the notices required under the terms of the promissory note in a timely manner shall cause the recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for a subsequent year of the loan will be placed in a repayment status six months from the date of their loss of eligibility, unless granted an exception for cause by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 28:777 (April 2002), LR 31:41 (January 2005), LR 44:

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note (promissory note). The promissory note obligates the recipient to initiate a primary care practice in a designated area upon the completion of a primary care residency program. The recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a designated area within six months from the date of completion of the residency program. The designated area in which the recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other designated area chosen by the recipient, upon completion of the residency program. The promissory note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer a "designated area at the time the recipient finishes the residency program, it shall continue to be considered a designated area for purposes of discharge of the loan amount under these rules. The recipient shall be deemed to be in a full-time primary care practice if the recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and double the amount of the loans shall be repaid together with all accrued interest and any collection costs incurred by the board, as specified in the promissory note and as required by §2313, below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1874 (November 2001), amended LR 31:42 (January 2005), LR 44:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a designated area for a period of five years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full-time practice as a primary care physician in a designated area is accomplished by:

1. completing a residency in a primary care field of medicine within four years of the graduation from medical school; and

2. practice as a primary care physician on a full time basis for a period of at least five consecutive years in a designated area.

C. Recipients who fail to complete the medical practice requirements as specified in the promissory note shall be required to repay the entire loan obligation in accordance with Subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the promissory note and who are not eligible for discharge by cancellation must immediately repay double the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest shall accrue on the outstanding principal from the date of disbursement to the recipient, at the rate determined by the board and reflected in the promissory note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the recipient enters repayment status.

E. Repayment Status

1. The recipient will enter into a repayment status the first of the month following:

a. determination by the board that the recipient cannot discharge the loan by practicing medicine as required by these rules and the promissory note within the required time period; or

b. the date the recipient notifies the board that monetary repayment is desired; or

c. six months after the board determines that the recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the promissory note;

2. determination that a recipient has entered repayment status, the board will send written notice of the recipient's repayment status including the total amount of tuition that must be repaid, the amount of interest accrued and instructions for repayment;

3. the recipient must repay double the amount of the total tuition disbursed no later than 30 days from the date of the written notice of the recipient's repayment status. Accrued interest may be amortized in accordance with §2313.E.4;

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the accrued loan interest, together with accruing interest, within five years; or

b. \$5,000 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, Deferral of Repayment Obligation;

6. during the period of time a recipient is in a deferment status, a recipient is not required to make payments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the promissory note shall be canceled in the event either of the following occurs:

1. upon submission to the board of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to the board of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1463 (August 1999), amended LR 25:2177 (November 1999), repromulgated LR 27:1874 (November 2001), amended LR 31:42 (January 2005), LR 44:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG18179NI) until 4:30 p.m., December 11, 2017, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental expenditures. In accordance with the requirements of R.S. 17:5062(C)(1), the proposed rule change modifies the Scholarship and Grant Program rules to add AP Psychology, Mandarin Chinese I-IV, Hindi I-IV, Portuguese I-IV, Vietnamese I-IV and Probability and Statistics courses as an equivalent (substitute) course for applicable TOPS core curriculum requirements. In addition, the proposed rule change continues the implementation of Act 314 of the 2016 Regular Session of the Louisiana Legislature by deleting or modifying provisions in the rules relating to the abolishment of the Louisiana Student Financial Assistance Commission (LASFAC) and the transfer of LASFAC responsibilities to the Louisiana Board of Regents (BOR). The proposed rule also includes required technical corrections that do not impact program costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule provides students with applicable substitute courses for the TOPS core curriculum requirements, thus students will have more choices in their options to fulfill the core courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

Robyn Rhea Lively
Senior Attorney
1711#020

Evan Brasseux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Pardons
and
Committee on Parole**

Administration, Clemency, Parole Eligibility,
Victim Notification and Participation in Hearings,
and Parole Decisions (LAC 22:V.203, 211,
and XI.102, 303, 307, 510, 701, 703, and 711)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and the Committee on Parole hereby gives notice of its intent to enact and amend its rules of LAC 22:V.203, 211 and LAC 22:XI.102, 303, 307, 510, 701, 703 and 711. These proposed rule changes contain technical revisions and also incorporate acts of the 2017 Regular Legislative Session. Act 70 provides relative to the release date of an offender required to complete certain rehabilitative programs prior to release on parole; Act 258 provides that if an offender has a parole hearing, a registered victim may submit a reentry statement to the Committee on Parole; Act 267 provides relative to the length of time certain applicants are required

to wait before applying for a pardon or commutation of sentence; Act 280 provides relative to notice to victims, and medical treatment furlough; Act 337 provides relative to rights of crime victims with respect to notification of pardon or parole.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. - C.2.e.iii. ...

D. Life Sentences. An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The 15 years shall include periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment. The offender must also meet the criteria stated in Subparagraphs C.2.a-d of this Section.

E....

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:

§211. Hearings before the Pardon Board

A. - B.

C. At least 90 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;
2. the applicant;
3. the direct victim or the spouse or next of kin of the deceased victim. The notice is not required when the victim, or the spouse or next of kin of a deceased victim advises the board, in writing, that such notification is not desired;
4. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and
5. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

D. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

E. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

1. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the clemency hearing.

2. Any person making an oral presentation to the board will be allowed no more than five minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. Any person making oral presentations against an applicant, including

victims, shall be allowed cumulatively no more than 10 minutes.

F. There is no limit on written correspondence in favor of and/or opposition to the applicant's request. a candidate for parole release or an applicant for clemency.

G. The board shall provide notice to the Department of Public Safety and Corrections, Crime Victims Services Bureau at least 30 days prior to pardon hearing.

H. If an applicant is requesting commutation of sentence, and is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:

Part XI. Committee on Parole

Chapter 1. Administration

§102. Powers and Duties of the Committee

A. The Louisiana Committee on Parole shall:

1. make parole, release and revocation decisions under R.S. 15:574.2;

2. evaluate any application filed pursuant to R.S. 15:308 and taking into consideration the risk of danger the applicant would pose to society if released from confinement, shall make recommendations to the Board of Pardons as to whether the applicant is eligible for a reduction in sentence pursuant to R.S. 15:308;

3. adopt rules not inconsistent with law as it deems necessary and proper with respect to the eligibility of offenders for parole and the conditions imposed upon offenders who are released on parole;

4. keep records of its official actions and make them accessible according to law;

5. collect, develop, and maintain statistical information concerning its services and decisions;

6. notify the district attorney of the parish where the conviction occurred as required by law:

a. the district attorney of the parish where the conviction occurred shall be allowed to review the record of the offender since incarceration, including but not limited to any educational or vocational training, rehabilitative program participation, disciplinary conduct and risk assessment score. The district attorney shall be allowed to present testimony to the committee and submit information relevant to the proceedings;

7. when requested to do so, notify, in writing at least seven days prior to the offender's release on parole, the chief

of police, sheriff, or district attorney of the parish where the offender will reside and where the conviction(s) occurred;

8. submit an annual report on its performance to the Secretary of the Department of Public Safety and Corrections on or before February 1 each year for the previous calendar year. This report shall include statistical and other data with respect to the work committee may make of sentencing, parole, or related functions, and may include recommendations for changes considered necessary to improve its effectiveness.

B. The Louisiana Committee on Parole may:

1. apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry;

2. take testimony under oath, either at a hearing or by deposition;

3. sanction an offender's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications with the offender's parole application, notice for which shall be provided to the offender at, or prior to, the commencement of proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2258 (August 2013), amended LR 41:42 (January 2015), LR 44:

Chapter 3. Parole—Eligibility and Types

§303. Regular Parole

A. ...

B. Generally within nine months prior to an offender's parole eligibility date, all pertinent information will be compiled concerning the offender's case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013), LR 42:1283 (August 2016), LR 44:

§307. Medical Parole/Medical Treatment Furlough

A. - D. ...

E. The authority to grant medical parole shall rest solely with the committee.

1. Due to the nature of medical parole/medical treatment furlough cases, an exception to *Board Policy, 05-509, Victim Notification and Participation in Hearings* shall be made regarding the notice to victims, requiring the notice to be at least 60 days in advance of the scheduled hearing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013), LR 41:44 (January 2015), LR 44:

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be

allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the offense on the victim. The parole panel shall allow one person to appear in person before the panel to present testimony on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The direct victim, spouse, or next of kin of a deceased victim and any person who has filed a victim notice and registration form shall be advised in writing no less than 90 days prior to the scheduled hearing date

B.1. - C.2. ...

3. the direct victim, the guardian of the victim, or close relative of a deceased victim will be allowed to speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for advance notice of a scheduled hearing to the direct victim to the Department of Public Safety and Corrections, Division of Probation and Parole. This notification is not required when the direct victim cannot be located despite the exercise of due diligence.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. If victim notification is determined to have not met the advance notice time requirements required by this section, a victim may request that a hearing be re-scheduled if the hearing has not yet been conducted. Likewise, a victim may waive the notice requirement; however, such waiver must be received in writing from the victim.

G. Should a hearing be re-scheduled by the board for any reason other than the victim's request, the board shall notify the victim as soon as possible by telephone and shall follow-up with written confirmation of the telephone notification via certified U.S. Mail (with return receipt requested)

H. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

J. If more than one person is entitled to appear for a parole hearing, the person chosen by all persons entitled to appear may serve as a spokesperson for all those entitled to appear. Any person making an oral presentation to the parole panel will be allowed no more than five minutes. However, at the parole panel chairman's discretion more than one person may present a written or oral statement to the panel.

1. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

K. There is no limit on written correspondence in favor of and/or opposition to a candidate for parole release.

L. The committee on Parole shall notify all persons who have filed a Victim Notice and Registration form with the Department of Public Safety and Corrections of an offender's release from incarceration by parole. Such written notice shall be sent by certified mail (with return receipt requested).

M. Notice to Crime Victim Services Bureau of Parole Hearings. The committee shall provide notice to the Department of Public Safety and Corrections Crime Victims Services Bureau at least 30 days prior to parole hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 44:

Chapter 7. Parole Decisions

§701. Policy Statement

A. - C.5.b. ...

c. Effective August 1, 2018, victims of any offender who appears before the Committee on Parole for a parole hearing may provide the parole panel a re-entry statement to request proximity or contact restrictions, if that offender is granted parole. Victims must submit the re-entry statement to the Committee on Parole at least 60 days prior to the offender's scheduled parole hearing. The committee will consider the re-entry statement only for the purpose of determining the offender's parole conditions and not for the purpose of determining whether to order the release of the offender on parole. The re-entry statement is not binding on the Committee on Parole, but shall be considered in concert with other information when determining conditions of parole.

d. Evidence of official and/or community support may increase the likelihood of parole.

6. - 8.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2265 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 44:

§703. Result of Decision to Grant or Deny Parole

A. - A.2. ...

B. No physical release from custody shall be authorized by the granting of a parole eligibility date that extends beyond nine months from the date of the hearing; nor shall release be authorized until all notice requirements, if any, have been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), LR 44:

§711. Conditional Parole

A. When the committee determines that it would be in the best interest of the public and the offender, the committee may require successful completion of a specific

rehabilitative program (i.e., substance abuse treatment, transitional work program, 100 hours of pre-release training, reentry program, attainment of high school equivalency (HSE) as a prerequisite to release on parole to ensure public safety and enhance the offender's opportunity for success.

1. For conditional parole decisions, the committee will generally require completion of programs that have been certified by the Department of Public Safety and Corrections or that are recommended by the Division of Probation and Parole.

2. Program completion should occur within six months from the parole decision. However, if the program is more than 6 months in duration, the offender may be allowed up to 9 months after the parole decision to complete the specified program. In no event, however, may the physical release from custody on parole extend beyond nine months from the hearing date.

3. If the offender has not successfully completed the program in nine months from the hearing date, the committee shall rescind or reconsider his parole and schedule a subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 44:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49-972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2012 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mary Fuentes, Corrections Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on November 10, 2017.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Administration, Clemency, Parole Eligibility, Victim Notification and Participation in Hearings, and Parole Decisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes are primarily part of the package of bills based on recommendations from the Louisiana Justice Reinvestment (JRI) Task Force. The package of bills, enacted

subsequent to the 2017 Regular Session of the Louisiana Legislature, is projected to reduce prison and supervision populations by 2027 resulting in potentially significant expenditure savings. As reported by the task force, "the consensus recommendations would avert the projected growth in the number of prisoners in Louisiana and bend the prison population downward, for an overall reduction in the prison population by 2027. This decline in the number of prisoners would save Louisiana taxpayers millions over the next ten years. The recommendations would reinvest savings into research-based programs that reduce recidivism and services that support victims of crime. The recommendations would also reduce the community supervision populations by 2027, compared to the projected population absent reform."

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and the Committee on Parole hereby gives notice of its intent to enact and amend its rules of LAC 22:V:203, 211 and LAC 22:XI:102, 303, 307, 510, 701, 703 and 711. These proposed rule changes contain technical revisions and also incorporate acts of the 2017 Regular Legislative Session. Act 70 provides relative to the release date of an offender required to complete certain rehabilitative programs prior to release on parole; Act 258 provides that if an offender has a parole hearing, a registered victim may submit a reentry statement to the Committee on Parole; Act 267 provides relative to the length of time certain applicants are required to wait before applying for a pardon or commutation of sentence; Act 280 provides relative to notice to victim, and medical treatment furlough; and Act 337 provides relative to rights of crime victims with respect to notification of pardon or parole. The information below represents several rule changes associated with the aforementioned criminal justice reform efforts that are most likely to result in fiscal impacts:

Part V. Board of Pardons

203 – Eligibility for Clemency Consideration

Proposed changes to LAC 22:V:203 could result in potential savings to the Department of Public Safety and Corrections – Correction Services (DPS&C). LAC 22:V:203 states that an offender sentenced to life may not apply for clemency consideration until he has served 15 years from the date of sentence. The proposed rule change will include periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment. Thus, the offender may be in State custody for less time. Act 267 of the 2017 Regular Session will potentially result in a SGF cost savings for the DPS&C to the degree certain offenders become eligible and attain a pardon or commutation of sentence in less time than possible under previous law. In this instance, the exact fiscal impact is indeterminable since it is not known how many offenders will be granted pardon or commutation of sentence, even if eligible, as a result of the new law. However, if an offender is pardoned, a savings of \$24.39 per day in a local facility or \$51.90 per day in a state facility will be realized. Currently, DPS&C houses 50% of state offenders at the local level and 50% at the state level. In the event there is a material workload increase for the pardon board, there may be a need for additional staff.

711 – Conditional Parole

Proposed rule changes are technical and non-technical as it relates to conditional parole. LAC 22:XI 711 states that when an offender is required to complete a rehabilitation program as a prerequisite to release on parole, the allowance for program completion has been extended from six months to nine months after the parole decision. The fiscal impact as noted in Act 70 of the 2017 Regular Session reflects that this law will likely result in a decrease in SGF expenditures for the DPS&C. It will allow granting parole to certain inmates after completing

rehabilitation and workforce development programs as directed by the committee on parole on or before nine (9) months after the parole hearing or the most recent reconsideration of the prisoner's case. The potential per offender savings is \$21.76 (\$24.39 per day - \$2.63 parole supervision per day) per day or \$7,942.40 annually per offender in local facilities. To the extent that offenders are released from state facilities, the potential savings per day per offender is \$49.27 (\$51.90 per day - \$2.63 parole supervision per day) or \$17,983.55 annually. Currently, the DPS&C houses 50% of state offenders at the local level and 50% at the state level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed rule changes as a result of Acts 70 and 280 of the 2017 Regular Session may likely result in an indeterminable increase in SGR as a result of offenders being released into parole supervision. For each offender that is released to parole at a date earlier than that allowed by previous law, the DPS&C could collect up to \$63 per month from each offender under parole supervision. The maximum amount paid per month is \$63. The offender's ability to pay is determined by the committee on parole. While the number of individuals under parole supervision is likely to increase in the short term, the Louisiana Justice Reinvestment Task Force Report dated March 26, 2017, estimates material reductions by 2027, which predicts a decrease in revenues at some unspecified point in the future.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is likely an economic benefit for released offenders as they reenter the workforce and earn wages. This assumes individuals who are released have adequate skills and are able to obtain and maintain gainful employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should result in an increase in the number of former offenders being granted the capacity to reenter the workforce and earn wages. The capacity of these individuals to secure gainful employment and the capacity of the labor market to absorb the potential extra workforce is unknown.

Thomas C. Bickham, III
Undersecretary
1711#042

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Coastal Protection and Restoration Authority**

**Oyster Lease Acquisition and Compensation Program
(LAC 43:VII.Chapter 3)**

Pursuant to R.S. 56:432.1, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Executive Director of the Louisiana Coastal Protection and Restoration Authority gives notice that rulemaking procedures have been initiated to amend the below Chapter to clarify provisions of the Oyster Lease Acquisition Compensation Program ("OLACP"). The purpose of this amendment is to clarify language and add a definition regarding the "harvest efficiency ratio", which is used pursuant to the directive in R.S. 56:432.1 for the Coastal Protection and Restoration Authority ("CPRA") to determine the amount of compensation for oyster leases

acquired by the State of Louisiana for coastal protection and restoration projects. The amendment also seeks to make editorial changes that accurately reflect the agency responsible for administering the OLACP, which has changed from the Louisiana Department of Natural Resources to the CPRA pursuant to Acts 2009, No. 523. Neither purpose of the amendment will change any current policies, practices or methods of such lease acquisition compensation or of the OLACP. This program will continue to benefit coastal restoration efforts in Louisiana while sufficiently paying oyster lease holders for the acquisition of any oyster lease acquired through the program.

Title 43

NATURAL RESOURCES

Part VII. Coastal Protection, Conservation, and Restoration

Subpart 1. Ground Water Management

Chapter 3. Oyster Lease Acquisition and Compensation Program

§301. Purpose and Authority

[Formerly LAC 43:I.851]

A. This Subchapter sets forth the rules for the acquisition of and compensation for oyster leases by the authority when necessary for purposes of coastal protection, conservation, or restoration. The authority may acquire oyster leases, in whole or in part, for such purposes on behalf of the state to the extent that the leases are or may be directly affected by the dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a coastal protection, conservation, or restoration project.

B. These regulations are adopted pursuant to Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950, including the Oyster Lease Acquisition and Compensation Program under R.S. 56:432.1 and the general authority of the authority under Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§303. Construction and Usage

[Formerly LAC 43:I.853]

A. The following shall be observed regarding the construction and usage of these regulations.

1. Unless otherwise specifically stated, the singular form of any noun includes the plural and the masculine form of any noun includes the feminine.

2. Unless otherwise specifically stated, all references to *Section* are to Sections of this Subchapter.

3. Any reference to *days* in this Subchapter shall refer to calendar days.

4. The day of the event from which a designated time period begins to run shall not be included in the computation of a period of time allowed or prescribed in these regulations. The last day of the period is to be included in the computation of a period of time allowed or prescribed in these regulations, unless it is a legal holiday, in which case the period runs until the end of the next day that is not a

legal holiday. Nonetheless, the effective date of acquisition shall be on the date set by the authority pursuant to these regulations and R.S. 56:432.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§305. Definitions

[Formerly LAC 43:I.855]

A. The following shall apply for purposes of these regulations.

* * *

Authority—the Coastal Protection and Restoration Authority, its executive director, or his designee.

* * *

Department—Repealed.

* * *

Executive Director—the executive director of the Coastal Protection and Restoration Authority or his designee, unless otherwise specifically stated in this Subchapter.

Harvest Efficiency Ratio—the ratio used to determine the amount of marketable oysters capable of being harvested on affected acreage acquired pursuant to R.S. 56:432.1. The harvest efficiency ratio shall be 70 percent of the marketable oysters on the affected acreage.

* * *

Secretary—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§307. Notification to Leaseholder of an Oyster Resource Survey; Procedures and Protocols for an Oyster Resource Survey

[Formerly LAC 43:I.857]

A. When appropriate, the executive director shall determine and delineate the potential impact area of a project and in making such decision may consult with the government agency or any public or private entity responsible for the project.

B. When the executive director determines that an existing oyster lease identified in records provided and maintained by DWF may, in whole or in part, be located within the direct impact area of a project, the executive director may conduct an oyster resource survey.

C. The executive director shall notify the leaseholder in writing at least 15 days prior to the oyster resource survey of the potentially affected acreage or potentially affected lease. The notification shall, at a minimum, include the following:

1. a brief description of the coastal protection, conservation, or restoration project, and a plat or map depicting the project and potentially affected lease or potentially affected acreage;

2. a copy of these regulations, R.S. 56:424, and R.S. 56:432.1;

3. the date and time of the oyster resource survey;

4. the name of and contact information for the person conducting the oyster resource survey;

5. a statement that the leaseholder or his designee may accompany the person conducting the oyster resource survey;

6. a statement that the state may acquire the potentially affected lease or potentially affected acreage to be surveyed or sampled, and if so, that the leaseholder will be compensated for any acquired lease or portion thereof in accordance with R.S. 56:432.1 and this Subchapter;

7. the name of and contact information for a person at the authority to direct all inquiries regarding the project and the potentially affected lease or potentially affected acreage;

8. a statement that the leaseholder may provide to the authority, through the contact person listed in the notice, any reasonably confirmable data or other information relevant to a determination of the compensation for any potentially affected lease or potentially affected acreage, within 60 days after the actual date of the oyster resource survey conducted pursuant to this Subchapter. Failure to provide such data or information within the specified time period may preclude consideration of such data by the executive director, the authority, the person conducting the oyster resource survey, or the appraiser appointed thereby;

9. - 10. ...

11. a statement that the authority, the state of Louisiana, political subdivisions of the state, the United States, or any agency, agent, contractor, or employee of any of these entities is not subject to any obligation, responsibility, or liability in relation to or resulting from any surveying or sampling of any oyster lease, information provided to any leaseholder in relation to any surveying or sampling of any oyster lease, the timing of any acquisition of any part of any lease by the state pursuant to R.S. 56:432.1, the lack of acquisition of any part of any lease except as provided by R.S. 56:432.1, or any report pursuant to R.S. 56:432.2 or otherwise.

D. Any written notification from the executive director or the authority to the leaseholder of a potentially affected lease or potentially affected acreage in accordance with this section shall be deemed legally sufficient if sent by certified United States mail, postage pre-paid, return receipt requested, or hand delivered, to the last address furnished to DWF by the leaseholder on the date of issuance of notice.

E. Oyster Resource Survey Procedures and Protocol

1. ...

2. Assessment Procedure

a. Should the executive director elect to obtain an oyster resource survey of a potentially affected lease or potentially affected acreage, he may select the person(s) to conduct the oyster resource survey considering all relevant criteria, including but not limited to prior experience, prior performance, demonstrated expert knowledge in the field of oyster biology, and the ability to perform concurrent task orders while maintaining high quality work. The person(s) so selected shall be contracted with by the authority pursuant

to R.S. 39:1551, et seq., or other applicable public contract law, and shall have the following minimum qualifications:

- i. a college degree in biological science, or prior acceptance by a Louisiana federal or state court as an expert witness in the field of oyster biology or oyster ecology; and
- ii. five years of professional experience conducting oyster lease surveys and standing oyster crop analyses.

b. Samples should be taken at a minimum within the area of a potentially affected lease delineated by the executive director as the potential impact area of the project for which the oyster resource survey is being conducted.

c. - d. ...

f. An original copy of the written assessment shall be provided to and retained by the authority, which may use it in accordance with the appraisal and valuation procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:424, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2090 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2611 (December 2015), amended LR 44:

§309. Appraisal
[Formerly LAC 43:I.859]

A. The executive director shall determine or delineate the direct impact area of a project, and in making such decision, may consult with any public or private entity responsible for the project.

B. Should the executive director determine that an existing oyster lease identified in records provided and maintained by DWF is, in whole or in part, located within the direct impact area of a project, the executive director shall obtain an appraisal of the affected lease or affected acreage.

C. When the executive director elects to obtain an appraisal of an affected lease or affected acreage, he shall select the appraiser considering all relevant criteria, including but not limited to the following:

1. ...

2. the appraiser so selected shall be contracted with by the authority pursuant to R.S. 39:1551 et seq., or other applicable public contract law, and shall have a current certification as a Louisiana certified general real estate appraiser; professional designation in the field of appraisal; and, five or more years of professional experience conducting real property appraisals.

D. ...

E. A written appraisal shall be prepared by the appraiser, estimating the fair market value of the affected lease or affected acreage, and explaining the valuation methodology. An original of the appraisal and a copy of all documents used to develop the appraisal shall be provided to the authority, which may use it pursuant to the procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2612 (December 2015), amended LR 44:

§311. Determination of Compensation
[Formerly LAC 43:I.861]

A. The executive director shall determine the compensation for any affected acreage to be acquired as follows.

1. If the authority provides a time period of one year or more between issuance of a notice of acquisition pursuant to §313 of this Part and the effective date of acquisition, then compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the executive director in accordance with §309 of this Part.

2. If the authority provides a time period of less than one year between issuance of a notice of acquisition pursuant to §313 of this Part and the effective date of acquisition, the compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the executive director in accordance with §309 of this Part plus the value of the harvestable marketable oysters on the affected acreage, if any, as determined by the authority based upon the harvest efficiency ratio and other reasonably confirmable data. The number of harvestable marketable oysters on affected acreage shall be calculated by multiplying the harvest efficiency ratio by the number of marketable oysters on the affected acreage as determined in the oyster resource survey conducted in accordance with §307 of this Part. The number of marketable oysters on the affected acreage shall be determined taking into account the number of sacks of marketable oysters per acre, suitable acreage, and natural mortality. The compensation to be paid for harvestable marketable oysters on affected acreage shall be the number of harvestable marketable oysters on the affected acreage multiplied by the current statewide average market price, and subtracting the harvest cost.

3. Data for estimation of the value of harvestable marketable oysters shall be determined from the written assessment derived from the oyster resource survey conducted in accordance with §307 of this Part. The authority may also take into consideration any reasonably confirmable data or information supplied timely by any person in accordance with §307 of this Part.

4. The appraiser and the authority shall consider any reasonably confirmable data or other information supplied to the authority by the leaseholder following the oyster resource survey conducted in accordance with §307 of this Part. The authority or the appraiser may disregard any information or data not submitted timely pursuant to §307 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006), repromulgated by the Office of the Governor, Coastal

§313. Notification to Leaseholder of Acquisition and Compensation
[Formerly LAC 43:I.863]

A. Should the executive director determine that an existing oyster lease issued by DWF is located within the direct impact area of a project and the project is necessary and proper for coastal protection, conservation, or restoration, the executive director may acquire the affected acreage on behalf of the state in accordance with this Section.

B. ...

C. Such notice of acquisition shall, at a minimum, include:

1. a description specifying affected acreage, or portion thereof, being acquired;

2. the effective date of acquisition;

3. a brief description of the coastal protection, conservation, or restoration project for which the acreage is being acquired;

4. a plat or map depicting the project and the affected lease or affected acreage to be acquired;

5. a copy of these regulations and R.S. 56:432.1;

6. a statement that the authority will acquire the acreage described in the notice of acquisition, and that such acquisition shall automatically occur on the date specified in the notice;

7. - 10. ...

11. a statement that the leaseholder will either be allowed a period of one year or more from the date of issuance of notice of acquisition herein in which to remove any and all marketable oysters from the affected lease, at his sole risk and expense, and that no compensation shall be allowed for oysters so removed or removable, or if the authority states an effective date for the acquisition that is less than one year after the date of issuance, a statement that the compensation for the acreage to be acquired includes compensation for the harvestable marketable oysters as part of the attached acquisition payment;

12. a determination of compensation, stating the dollar amount that the authority has determined in accordance with these regulations and R.S. 56:432.1 to be paid for the acquired acreage and the appraised value of the acquired acreage. If compensation is being paid for harvestable marketable oysters, a statement of the value thereof is also to be included;

13. a check, attached only to a notice of acquisition sent to the leaseholder's last address as furnished to DWF by the leaseholder on the date of issuance of notice, in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, in the name of the leaseholder of record in accordance with the records of DWF on the date of issuance of notice of acquisition herein;

14. ...

15. if any amount due on a recorded lien or encumbrance has been withheld from the check for compensation, a statement indicating the name of the holder of the recorded lien or encumbrance, the amount withheld, and that payment of said amount has been made by the authority to that holder;

16. a statement that the leaseholder may seek an administrative hearing in writing through the authority within 60 days after issuance of the notice of acquisition, determination of compensation, or payment, pursuant to these regulations and R.S. 56:432.1, as to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper or whether the compensation issued by the authority satisfied the regulations under this Subchapter, and that administrative or judicial review may be permissible, but that the procedures stated by law and these regulations must be followed or such right of review may be lost or impaired; and

17. ...

D. Before issuing any notice of acquisition, the authority shall make a reasonable attempt to determine whether any amount is due on a recorded lien or encumbrance in relation to any oyster lease covering the acreage to be acquired. The holder of the lien or encumbrance and the leaseholder may negotiate to allocate the compensation to be paid under the notice of acquisition by written agreement among them. Any such written agreement must fully release and indemnify the authority from any claim in relation to the acreage to be acquired or the compensation for such acreage.

1. If no such written agreement is provided on or before the date when the authority issues the notice of acquisition, the authority shall withhold the full amount of all liens or encumbrances covering any of the acreage to be acquired, up to the full amount of the compensation determined by the authority. If the authority timely receives such a written agreement, the authority shall withhold the amount agreed by the lienholder or encumbrance holder. A statement of the name of the holder and the amount withheld in relation to each lien or encumbrance shall be issued to the leaseholder as part of the notice of acquisition.

2. ...

3. The authority shall forward payment in the full amount of any withholding to the holder of the lien or encumbrance by certified United States mail, return receipt requested, postage pre-paid, or by pre-paid receipted courier or delivery service, or hand delivery, to the last address on file with the secretary of state, if any, or to any address provided to the authority or DWF by the lien or encumbrance holder. A copy of the notice of acquisition and determination of compensation, showing the lien or encumbrance and the withholding in relation thereto, shall be attached to the payment.

4. If the authority is unable to make delivery of the payment by these means, the authority shall transfer funds in the full amount of the withholding to a trust account from which it may be drawn for the benefit of the holder of the lien or encumbrance by joint agreement of the holder and the authority, upon request of the lienholder of record on the date the notice of acquisition is initially issued.

5. If funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq., at the sole discretion of the executive director.

E. If the authority attempts issuance of notice of acquisition, determination of compensation, and the check pursuant to §313.C of this Part, at least once, and is unable to make delivery of the notice to the leaseholder thereby, the authority shall re-issue the notice and the determination of compensation by certified United States mail, return receipt requested, to the leaseholder at his address on file with DWF on the date of the re-issuance. In such event, the authority shall also publish a summary of such notice identifying the affected lease and acreage to be acquired, stating the effective date of the acquisition and providing a contact person at the authority for all inquiries regarding the acquisition, in the official journal for all parishes in which any part of the acreage to be acquired is located. In addition, the following procedures shall apply.

1. If a Notice of Acquisition is re-issued under this Subsection, no check shall be attached to the re-issued notice. Instead, payment in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, shall be transferred into a trust account from which it may be drawn for the benefit of the leaseholder by joint agreement of the leaseholder and the authority, upon request of the leaseholder listed with DWF on the date the notice of acquisition is initially issued. If said funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act as set forth in R.S. 9:151 et seq., at the sole discretion of the executive director.

2. A re-issued notice shall include a statement that compensation for the acquisition has been deposited into a trust account, and that a contact person at the authority designated in the re-issued notice can assist the leaseholder in withdrawing said funds from the trust account. The re-issued notice shall also include a statement that any funds in the trust account remaining unclaimed after five years shall be declared abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq.

F. ...

G. No lease shall be granted for any water bottom for which any lease was previously acquired by the state for coastal protection, conservation, or restoration, unless the secretary of DWF determines that leasing would otherwise be appropriate under the provisions of Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950 and the executive director of CPRA affirms that the water bottom is not necessary for coastal protection, conservation, or restoration, as provided by and in accordance with the provisions of R.S. 56:425(E). Unless this determination has been made prior to issuance of the lease, a lease of water bottom for which a lease was previously acquired shall be null and void for such water bottom and shall be of no force or effect. No person shall have any claim against the executive director of CPRA, the secretary of DWF, either department, the state of Louisiana, its political subdivisions, the United States, or any agency, agent, contractor, or employee thereof or any other person in relation to the nullity of such lease. The determination of whether the water bottom sought to be leased is not necessary for coastal protection, conservation, or restoration

shall be at the sole discretion of the executive director of CPRA, upon consideration of existing, planned, projected, or reasonably foreseeable projects or other actions needed for coastal protection, conservation, or restoration.

H. Nothing in these regulations shall be construed to require the executive director to engage in or perform any project or other action for coastal protection, conservation, or restoration or any oyster resource survey, appraisal, or valuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:425, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2092 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2612 (December 2015), amended LR 44:

§315. Administrative Review **[Formerly LAC 43:I.865]**

A. A leaseholder of an oyster lease acquired, in whole or in part, in accordance with these regulations and R.S. 56:432.1 may seek an administrative hearing through the authority.

1. Any such adjudication shall be limited to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper, or whether the compensation issued by the authority satisfies the rules and regulations under this Subchapter.

2. Any leaseholder whose lease is not acquired, but upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred, may also seek an administrative hearing through the authority under this section to determine if acquisition of such oyster lease acreage would be proper.

B. A leaseholder's request for an administrative hearing under this section shall be requested in writing and sent to the authority at the following address: Coastal Protection and Restoration Authority, Executive Director, P.O. Box 44027, Baton Rouge, LA 70804-4027.

1. A written request for adjudication under this Section must be received by the authority within 60 days after issuance of the notice of acquisition, determination of compensation, or payment to which the request pertains. However, a request for adjudication may be submitted to the authority within two years after completion of the project for which acreage was acquired, if and only if, the leaseholder establishes that notice of the acquisition, determination of compensation, or payment was not issued as required by R.S. 56:432.1 or §313 of this Part, or the request for adjudication seeks review of the lack of acquisition of leased acreage upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred.

a. A request for adjudication received after the aforementioned deadlines, as applicable, is not timely and shall be denied.

b. A request for adjudication is deemed timely "received" when the request is mailed on or before the due date. If the papers are received by mail on the first legal day

following the expiration of the delay, there shall be a rebuttable presumption that they are timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown by an official United States postmark or by official receipt or certificate from the United States Postal Service or a bona-fide commercial mail service such as Federal Express or United States Parcel Service, made at the time of mailing which indicates the date thereof.

2. A request for an administrative hearing shall, at a minimum, include the following:

a. identification of the notice of acquisition to which the request pertains, or if no notice has been issued, identification of the affected lease and affected acreage to which the request pertains;

b. a statement of the relief requested, identifying the specific issue or point as to which adjudication is sought;

c. a statement of the reasons such relief is requested, and the facts upon which the request for relief is based;

d. the name and address to which the authority and the Division of Administrative Law will send all communications regarding the request for administrative review. Neither the authority nor the Division of Administrative Law have any obligation to deliver any communications or other notices regarding the request to any person or address other than the address listed in the request or any amendment thereto. If no person is listed, the authority and the Division of Administrative Law shall deliver all communications or notices to the last address on file for the leaseholder with DWF, and shall have no obligation to deliver communications or notices to any other person or address.

3. The authority shall promptly submit a request for adjudication to the Division of Administrative Law.

C. ...

D. The leaseholder may provide to the Division of Administrative Law, the authority, and any other parties, including any holder of any lien or encumbrance or any other leaseholder claiming an interest in the acreage at issue, on or before the date of the adjudication, any reasonably confirmable data or other information that the leaseholder believes should be considered by the Division of Administrative Law in conducting the administrative review of the determination of the authority. The Division of Administrative Law shall consider any reasonably confirmable data or information timely provided to the authority by the leaseholder or any other person pursuant to §313 of this Part and R.S. 56:432.1. The Division of Administrative Law may disregard any information or data that is not submitted timely pursuant to this Subchapter.

E. The final decision of the Division of Administrative Law shall be issued to the leaseholder, in writing by certified mail, at his address on file with DWF on the date of issuance thereof, or at such other address as may be specified in the request for adjudication; and the Coastal Protection and Restoration Authority, Executive Director, P.O. Box 44027, Baton Rouge, LA 70804-4027.

F. ...

G. If the Division of Administrative Law declares in a final decision that the leaseholder is entitled to additional compensation for the acquisition of the leasehold acreage at issue or that the authority should have acquired a lease or acreage which it had not previously acquired, and states the amount of such compensation that is due, the authority, subject to Constitution Article 12, Section 10, shall issue a check or draft to the leaseholder for such additional amount, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, by certified United States mail, return receipt requested, postage pre-paid, or hand delivery, to the last address on file with DWF on the date of issuance, or at such other address as may be specified in the request for adjudication, within 60 days after issuance of the final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2094 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2614 (December 2015), amended LR 44:

§317. Judicial Review
[Formerly LAC 43:I.867]

A. ...

B. Proceedings for judicial review may be instituted in accordance with R.S. 56:432.1(D) by filing a petition in the Nineteenth Judicial District Court for the Parish of East Baton Rouge within 60 days after issuance of the final decision of the Division of Administrative Law. No petition for judicial review may be filed, and any such petition is premature, unless adjudication has been timely sought and all administrative remedies have been exhausted. Copies of the petition shall be served upon the executive director and on all parties of record.

C. ...

D. If the court declares in its judgment that the leaseholder is entitled to additional compensation for the acquisition of the leasehold acreage at issue or that the authority should have acquired a lease or acreage which it had not previously acquired, and states the amount of such compensation that is due, the authority may appeal the judgment in accord with R.S. 49:965 of the Administrative Procedure Act (APA). If the judgment is affirmed on appeal or no appeal is taken and subject to Constitution Article 12, Section 10, the authority shall issue a check or draft to the leaseholder for such additional compensation as set forth in the original judgment or as may be modified or amended on appeal by certified United States mail, return receipt requested, postage pre-paid, or hand delivery, to the last address on file with DWF on the date of issuance, or at such other address as may be specified in the request for adjudication no more than 60 days after the judgment becomes final and definitive under the provisions of Articles 2166 and 2167 of the Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2095 (November

2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2616 (December 2015), amended LR 44:

§319. Reimbursement of Costs of Acquisition
[Formerly LAC 43:I.869]

A. The authority may acquire any acreage under this Subchapter in relation to a project or action for coastal protection, conservation, or restoration performed or to be performed by or for the United States, any department, agency, board, commission, or political subdivision of the state, or any other public or private entity responsible for a project.

B. If the authority acquires acreage under this Subchapter in relation to any project or action performed by any person or entity other than the authority, such entity shall compensate the authority for all costs incurred by the authority, which are associated with the acquisition.

C. The costs for which reimbursement is due under this Subchapter includes but is not limited to costs of oyster resource surveys, appraisal, administrative, or other uses of authority personnel or resources, payment for acquisition, and awards on administrative adjudications or judicial review.

D. The executive director may choose, at his sole discretion, to waive any part or all of the compensation that would otherwise be required under this Section. No person or entity shall have any right to such waiver, and the executive director shall have no obligation to make such a waiver. Waiver of any part of the compensation that would otherwise be required shall not affect any obligation to pay the remainder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2095 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2616 (December 2015), amended LR 44:

Family Impact Statement

The proposed amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed amendment has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed amendment will have no adverse impact on small businesses as described in R.S. 49:965.5.

Provider Impact Statement

The proposed amendment has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed amendment. Persons commenting should reference the proposed Rule by using the term Oyster Lease Acquisition Compensation Program. Such comments must be received no later than December 11, 2017, at 4:30 p.m., and should be sent to the Louisiana Coastal Protection and Restoration Authority, TBD.

Michael Ellis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Oyster Lease Acquisition
and Compensation Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in costs or savings to state or local governmental units. The proposed rule change seeks to clarify and codify existing practice and certain terms concerning the determination of compensation for the acquisition of oyster lease acreage. The change maintains the same level of compensation that has been paid for more than a decade for the acquisition of state-issued oyster lease acreage for coastal protection and restoration projects.

The proposed rule change adds a definition regarding the “harvest efficiency ratio”, which is used pursuant to the directive in La. R.S. 56:432.1 for the Coastal Protection and Restoration Authority (“CPRA”) to determine the amount of compensation for oyster leases acquired by the State of Louisiana for coastal protection and restoration projects.

The proposed rule change makes clarifying changes that accurately reflect the agency responsible for administering the Oyster Lease Acquisition Compensation Program (OLACP). Pursuant to Act 523 of 2009, responsibility for the OLACP changed from the Louisiana Department of Natural Resources to CPRA. The proposed rule change does not change any current policies, practices, or methods of such lease acquisition compensation or of the OLACP. This program will continue to benefit coastal restoration efforts in Louisiana while sufficiently paying oyster lease holders for the acquisition of any oyster lease acquired through the program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. The proposed rule change more precisely defines the methodology already in use to compensate oyster lease-holders by defining the harvest efficiency ratio. This ratio is used to determine the value of compensable marketable oysters on an oyster lease, which is limited to those capable of being harvested, when less than one year’s notice of acquisition of the lease pursuant to La. R.S. 56:432.1 is provided. The propose rule change sets the harvest efficiency ratio at 70 percent of the compensable marketable oysters on an acquired lease. This methodology and ratio amount have been applied and calculated in this manner since the inception of the program; therefore, there is no anticipated increase or decrease in costs or benefits to the oyster lessees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment because this proposed rule change clarifies certain terms concerning the determination of compensation for the acquisition of oyster leases. The agency intends to maintain the same level of compensation it has always paid and accrued for the acquisition of oyster leases as required and authorized by La. R.S 56:432.1.

Michael Ellis
Executive Director
1711#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement**

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings.

* * *

Peace Officer—any full-time, reserve, or part-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of detection of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff’s deputies whose duties include the care, custody, and control of inmates, police officers within the military department, state of Louisiana, and security personnel employed by the Supreme Court of Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR:25:662 (April 1999), amended LR 31:2007(August 2005), LR 35:2755 (December 2009), LR 44:

§4703. Basic Certification

A. All peace officers, as defined in R.S. 40:2403, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council) within one year of employment as a peace officer. Reserve or part-time officers or military police officers stationed in Louisiana are eligible for certification if they successfully complete a basic training course prescribed for peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. - b. ...

c. The POST Basic Training Curriculum (utilizing the Adult Learning Model) is required for any basic Level 1 training class that begins at an accredited academy after July 1, 2018.

A.2. - D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005), LR 35:1235 (July 2009), LR 36:992 (May 2010), LR 37:1606 (June 2011), LR 42:274 (February 2016), LR 44:

§4705. Registration

A. - C.2. ...

D. Registered officers who are “grandfathered in” are exempt from the basic training course requirement but must comply with all other POST mandates to maintain grandfathership including in service training.

E. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:3159 (December 2005), LR 37:319 (January 2011), LR 44:

§4709. Interruption of Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time continuous law enforcement employment for a period in excess of five years (“break in service”) and is subsequently rehired full-time, shall be required to meet the basic training requirement for new peace officers unless the officer had:

1. - 2. ...

B. Any officer hired after January, 1986, who interrupts his full-time law enforcement service for a period not to exceed five years, must qualify with his/her firearms to reinstate their certification. If the officer fails to requalify, then the officer must attend a full 40-hour training course with firearms and successfully requalify to reinstate their certification. If the officer had interrupted his full time service for a period of five years, and is thereafter rehired, then the officer must meet the requirement for “refreshers” outlined in §4709.A.2.

C. Extended medical leave does not constitute an interruption of full-time service/employment (“break in service”).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:1927 (September 2008), LR 37:319 (January 2011), LR 44:

§4715. Instructor Qualifications

A. Full-time academy instructors must meet the following qualifications:

1. - 2. ...

3. shall have completed the instructor development course conducted by the council.

4. ...

B. Specialized instructors for defensive tactics, firearms, and corrections shall meet the following qualification:

1. - 2. ...

3. shall successfully complete all aspects of adult learning model training (except for Defensive Tactics instructors)

B.4. - E.6. ...

F. POST Corrections Instructors

1.a. Eligibility for Level 1 Corrections Instructors

i. All applicants must be both a Level 1 and Level 3 peace officer or be a Level 2 peace officer under the current law; and

ii. ...

iii. Successfully complete the POST/ Corrections Instructors Course.

b. No out-of-state transfers are allowed for corrections instructor certification.

2.a. Eligibility for Level 2 Master Corrections Instructors

i. The applicant shall be a POST Corrections Instructors at least two years; and

ii. ...

iii. successfully complete the POST Master Corrections Instructor course.

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:2008 (August 2005), LR 32:1043 (June 2006), LR 44:

§4717. POST Instructor Development Course

A. - B.1. ...

2. Repealed.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:793 (April 2004), amended LR 44:

§4731. Revocation of Certification

A. All law enforcement agencies and correctional agencies and institutions within the state of Louisiana shall immediately report the conviction of any POST certified full time, reserve, or part-time or grandfathered peace officer to the council.

B. The P.O.S.T. certification of any qualified peace officer, whether employed full-time, part-time, or reserve, shall be revoked upon the occurrence of any of the following conditions:

1. a conviction of malfeasance in office;
2. a conviction of an offense which results in the individual peace officer's restriction of his constitutional right to bear arms.

C. The P.O.S.T. council may conduct a revocation hearing to determine whether the certification of any qualified peace officer, whether employed full-time, part-time, or reserve, shall be revoked if the officer:

1. was involuntarily terminated by his employing law enforcement agency for disciplinary reasons involving civil rights violations and the officer had exhausted all administrative remedies.
2. was convicted of a misdemeanor involving domestic abuse battery as provided in R.S. 14:35.3 or a felony in any court in the U.S.
3. failed to complete additional training as required/prescribed by the council.

4. voluntarily surrenders his certification.

5. Has a judicial disposition in a criminal case that results in revocation.

D. Any hearings conducted by the council or appeal by an officer are conducted by rules and regulations established by the council.

1. An officer subject to a revocation hearing shall be duly notified at least 30 days in advance of the hearing by the council.

2. The council may take testimony and evidence during the hearing, and make findings of fact and conclusions of law.

3. The council shall forward its decision via certified U.S. mail to the peace officer and the officer's employing agency.

E. Revocation hearings conducted by the P.O.S.T. can be conducted during a regularly scheduled meeting.

F. Any peace officer whose certification has been revoked may file an appeal to the decision under the provisions of the Administrative Procedure Act under R.S. 49:964

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665(April 1999), LR 34:1927(September 2008), LR 44:

§4750. In Service Training and Certification

A. Firearms

1. - 1.b. ...

B. Minimum Training Hours

1. Each calendar year, all certified level 1 and 2 officers must successfully complete, at a minimum, the required 20 hours of in-service training hours to maintain certification, unless waived by the council. This requirement includes "grandfathered" peace officers. These training requirements begin the first calendar year after receiving certification or successful completion of "refresher" training.

2. The training hours must include, at a minimum:

- a. legal (2 hours)
- b. firearms (8 hours)
- c. officer survival (4 hours)
- d. electives (6 hours)

C. Failure to complete training requirements

1. If peace officer fails to complete the required number of training hours during a calendar year, the POST certification for the officer will be temporarily suspended. Once an officer's certification has been suspended, that officer shall be given 90 calendar days to correct his training deficiency, at which point the suspension shall be lifted. If an officer fails to correct his training deficiency within the 90-day probationary period, that officer's certification shall be revoked under provision of §4731(B)(3). Training completed while an officer's certification is suspended shall not count toward that officer's training requirements for the current year. To reactivate the certification, the officer must attend and successfully complete a "refresher" course as prescribed by the council.

2. Peace officers called to active military duty will not be required to complete in-service training requirements missed while performing the active duty service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016), amended LR 43:316(February 2017), LR 43

§4761. Advanced Training

A. - B.1.c. ...

d. Vehicular homicide investigators are not required to complete this course.

2. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016), amended LR 43:316(February 2017), LR 44:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it outlines the implementation of sexual assault awareness training for peace officers.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through post-secondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirement or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than December 27, 2017 at 5 pm to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, Box 3133 Baton Rouge, LA 70821.

Mr. Jim Craft
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes, pursuant to legislative action, will likely result in an indeterminable increase in state and local expenditures. There are approximately 15,000 existing peace officers statewide with nearly 1,200 new peace officers certified annually. The cost of this program would depend largely on whom this training course is directed and how quickly the P.O.S.T. Council must train the individuals. The existing average cost for a new peace officer is \$ 835/per officer and the anticipated increase in the number of basic training hours and increased supplies for the academy will likely cause an increase in state and local expenditures.

Implementation of the proposed rules requires all peace officers to successfully complete a minimum of basic core curriculum training and a minimum of 20 hours of in-service training on an annual basis to maintain certification. In addition, the POST Council is directed to develop and implement curriculum for de-escalation, bias policing, sudden in-custody death, and crisis intervention training for peace officers. All of these requirements are mandated by Acts 272, 271, and 210 of the 2017 Regular Session of the Louisiana Legislature. These modifications will likely cause an indeterminable increase to existing expenditures for state and local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The additional training provides peace officers with additional tools to likely enhance the work they perform in the respective communities they serve.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Jim Craft
Executive Director
1711#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning and Control

Uniform Public Work Bid Form (LAC 34:III.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of RS 39:121, the Division of Administration, Facility Planning and Control hereby gives notice of its intent to amend Title 34.III.Chapter 3, Louisiana Uniform Public Work Bid Form.

This proposed Rule revises the language of the Louisiana Uniform Public Work Bid Form to further clarify the requirement of supplying written evidence of the authority of the person signing, as required by R.S. 38:2212(B)(5).

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 3. Louisiana Uniform Public Work Bid Form

§313. Unit Price Form

A. ...

* * *

** Written evidence of the authority of the person signing the bid for the public work shall be submitted at the time of bidding. "Written evidence" shall consist of a physical document such as a corporate resolution, a copy of the legal entity's detailed record from the Secretary of State's business filings page, or a certificate of authority as documented by the legal entity, an affidavit, resolution, or other acknowledged or authentic document indicating the names of all parties authorized to submit bids for public contracts. Failure to provide such *written evidence* of authority at the time designated for bid opening shall result in the bidder being declared "non-responsive" and the bid rejected.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2212.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 35:1522 (August 2009), amended LR 41:336 (February 2015), LR 44:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973

Small Business Analysis

The Office of Facility Planning and Control has considered all methods of reducing the impact of the proposed Rule on small business as noted in R.S. 49:965.6.

Provider Impact Statement

The proposed amendment has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments to Barry Hickman, Facility Planning and Control, 1450 Poydras St., Suite 1130, New Orleans, LA 70112. Written comments will be accepted through December 11, 2017.

Mark A. Moses
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Uniform Public Work Bid Form

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings for state or local governmental units as a result of the proposed rule change. The proposed updated rule clarifies the statutory requirements of the sections in R.S. 38:2212 with regard to submitting written evidence of the authority of the person signing a bid for public work at the time of the bidding. The proposed rule change should reduce the number of otherwise valid bids from being rejected and, may in some cases, provide a cost savings to state or local governmental units, as a result of reduced litigation and increased opportunity to accept low bids that are sometimes rejected for failure to submit written evidence of signature authority.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental revenues as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change. The rule change should reduce the number of otherwise valid bids from being rejected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated director material effect on competition and employment as a result of the proposed administrative rules.

Mark A. Moses
Director
1711#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Associations' Duties and Obligations
(LAC 35:III.Chapter 57)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to adopt LAC 35:III.5704, 5706, 5710, 5714, 5724, and 5764. In addition, the Racing

Commission proposes to amend LAC 35:III.5707, 5709, 5713, and 5723. These rule changes are being codified to further develop sufficient regulations to ensure that racetracks comply with health, safety, and welfare standards.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations

§5704. Public Address System

A. An association shall provide and maintain a public address system capable of transmitting announcements to the patrons and to the stable area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5706. Barns on Backside of Racetrack

A. An association shall ensure that the barns are kept in good repair and are kept clean by the licensed occupants. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the adoption of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 10 feet by 10 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede any requirements set forth by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5707. Fire Prevention Security

A. A round-the-clock patrol of the fenced area shall be maintained by security officers, who shall pay special attention to the presence of unauthorized personnel, to the enforcement of fire prevention measures and to the inspection of tack rooms and living quarters for fire hazards.

B. The association shall ensure compliance with the local fire marshal regarding safety regulations and shall provide the commission proof of compliance constituting the most recent inspection by the local fire marshal or state approved fire inspection service on an annual basis.

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 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5709. Housing of Stable Employees

A. Each association shall provide adequate and sanitary living quarters with proper sanitary arrangements, and ample and convenient toilet facilities for stable employees, and shall provide in its stable area at least 1 tack room of a

minimum area of 100 square feet for every 6 horses stabled, with adequate facilities for housing personnel therein.

B. The living quarters shall comply with all state and local building and fire codes associated with the housing of people.

C. Dependent upon the season of the race meet, the association may also be required by the commission to have heating and air conditioning.

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 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5710. Tack Room

A. Each association shall provide in its stable area at least 1 tack room of a minimum area of 100 square feet for every 6 horses stabled, with adequate facilities for housing personnel therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5713. Ambulance

A. Each association shall provide one ambulance during its training and racing hours. During such time, the ambulance shall be ready for duty, properly equipped to provide emergency medical services, including equipment and a registered paramedic and a certified emergency medical technician, and shall have immediate access to the racing strip. If the ambulance is being used to transport an individual, the association shall not conduct a race, or allow horses with riders on the racetrack until the ambulance is replaced.

B. Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

C. The ambulance shall be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:546 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5714. Equine Ambulance

A. An association shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

B. The ambulance shall be properly ventilated and kept at an entrance to the racetrack when not in use.

C. The ambulance shall be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress and transport a horse off of the racetrack and association grounds.

D. The ambulance shall be equipped with:

1. large, portable screens to shield a horse from public view;
2. ramps to facilitate loading a horse;
3. adequate means of loading a horse that is down;

4. a padded interior; and

5. a movable partition to initially provide more room to load a horse and to later restrict a horse's movement.

E. An association shall not conduct a race unless an equine ambulance or an official state veterinarian-approved substitute is readily available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5723. Lighting

A. The stable area must be properly lighted, so that it will be entirely void of darkness in any section. Lights will be turned on at dusk and they shall remain on until one hour after the last race. Lights shall not be turned on or off while the horses are on the track.

B. An association shall provide lighting for the patron facilities that is adequate to ensure the safety and security of the patrons and licensees.

C. If an association conducts racing at night, the association shall maintain an emergency back-up lighting system on the racetrack proper to allow for the safety of the horses and related personnel during the race.

D. This Rule is not meant to supersede any state laws or local ordinances applicable to any individual licensed association.

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 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5724. Rails

A. Racetracks, including turf tracks, shall have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

B. The top of the inside rail must be at least 38 inches, but not more than 50 inches above the top of the cushion.

C. The top of the outside rail must be at least 34 inches, but not more than 50 inches above the top of the cushion. Any outside rails modified or installed after the adoption of these rules shall be at least 38 inches, but not more than 50 inches above the top of the cushion.

D. The inside dirt race/running rail may have an overhang of no less than 24 inches with a continuous smooth cover of material designed to withstand the impact of a horse and rider.

E. All race/running rails should be constructed of materials designed to withstand the impact of a horse and rider running at a gallop, with structural integrity, free of cracks, breaks, splinters and shall not contain any exposed sharp edges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

§5764. Surface of Race Course

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and

maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Associations' Duties and Obligations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change provides for certain operating requirements for racing associations in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule additions and amendments will impact racing associations in Louisiana by requiring them to provide and maintain their own public address system; ensure that barns on the backside of the racetrack are kept in good repair, are clean, have hot and cold water, and that any new stalls have a specified dimension, and have an adequate area for manure; ensure compliance with local fire marshal; ensure housing of stable employees complies with state and local building and fire codes, and have adequate heat or air conditioning depending on season; require a tack room; require ambulance

to be parked at entrance to racing strip and be properly staffed during races; have an equine ambulance with certain specifications; have emergency back-up lighting; have safety rails pursuant to jockey guild guidelines; and ensure the surface of the race course has adequate drainage, and is maintained to provide for the safety of the jockeys and horses. These additions and amendments could create an indeterminable cost for licensed racing associations, however, most of the licensed racing associations already comply with most of these rules, and these changes are being codified pursuant to recommendation by the Louisiana Legislative Auditor.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
1711#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Division of Administration
Racing Commission

Jockey Fee Schedule (LAC 46:XLI.725)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 46:XLI.725. The proposed Rule change is two-fold. The first change is clerical; it clarifies the purse amount categories that were incomplete. The second is an increase in the fee for jockeys who are unplaced (third place finish or worse) in races with purses of \$3,500 and higher by an additional \$5. To keep the fee schedule consistent, jockeys who place third in the two purse categories of \$5,000 to \$9,999 and \$10,000 to \$14,999 now receive an additional \$5.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLI. Horseracing Occupations
Chapter 7. Jockeys and Apprentice Jockeys
§725. Jockey Fee Schedule

A. Prior to the start of each race conducted by an association licensed by the commission, sufficient money shall be on deposit with the horsemen's bookkeeper in an amount equal to pay the losing mount fee of a jockey for that race. In the absence of a special agreement, the fee of a jockey shall be as follows.

Purse	Win	Second	Third	Unplaced
\$499 and under	\$27	\$19	\$17	\$16
500-599	30	20	17	16
600-699	36	22	17	16
700-999	10%	25	22	20
1,000-1,499	10%	30	25	22
1,500-1,999	10%	35	30	28
2,000-3,499	10%	45	35	33
3,500-4,999	10%	70	60	55
5,000-9,999	10%	80	70	65
10,000-14,999	10%	5%	75	70
15,000-24,999	10%	5%	5%	75
25,000-49,999	10%	5%	5%	80

50,000-99,999	10%	5%	5%	95
100,000 and up	10%	5%	5%	120

B. Failure, refusal and/or neglect of a trainer to timely deposit or have deposited the aforesaid jockey fee for a horse entered to race, on or before the time specified herein, shall be a violation of this Section. Each such violation shall be punishable by a fine of not less than \$200 and the failure to pay such fine within 48 hours of imposition thereof shall be grounds for suspension. Additionally, an amount equal to the jockey fee actually earned by the jockey in accordance with the aforesaid schedule shall be paid to the jockey earning same within 48 hours of the imposition of the aforesaid fine, and failure to pay said jockey fee within the time specified herein shall be an additional grounds for suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:28 (January 1977), LR 4:276 (August 1978), LR 5:23 (February 1979), LR 12:12 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 16:112 (February 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 35:2756 (December 2009), LR 44:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Jockey Fee Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change is two-fold. The first change is clerical, it clarifies the purse amount categories that were incomplete. The second is an increase in the fee for jockeys who are unplaced (third place finish or worse) in races with purses of \$3,500 and higher by an

additional five (5) dollars. To keep the fee schedule consistent, jockeys who place third in the two purse categories of \$5,000 to \$9,999 and \$10,000 to \$14,999 now receive an additional five (5) dollars.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will create an additional cost for owners of race horses entering races as the proposed rule increases the fee for jockeys which are unplaced (third place finish or worse) in races with purses of \$3,500 and higher by an additional five (5) dollars. To keep the fee schedule consistent, jockeys who place third in the two purse categories of \$5,000 to \$9,999 and \$10,000 to \$14,999, now receive an additional five (5) dollars. This increase in five (5) dollars has already been agreed to and approved by the Louisiana Horsemen's Benevolent and Protective Association Board and the Jockeys Guild.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
1711#008

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Division of Administration
Racing Commission

Resale; Movement (LAC 35:XI.9909)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:XI.9909. The proposed Rule removes the restriction on claimed horses by allowing them to enter and run at any licensed racetrack after the close of entries for the last racing day at the meet during which it was claimed. The current Rule, prior to amending, prohibited claimed horses from entering and running until the completion of the last racing day at the meet at which it was claimed.

Title 35
HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9909. Resale; Movement

A. If a horse is claimed, it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of entries of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until after the close of entries of the meeting at which it was claimed. Where a race meeting is authorized

and conducted as a split-meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until after the close of entries of that segment of the split meeting at which it was claimed. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:878 (September 1991), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Resale; Movement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule removes the restriction on claimed horses by allowing them to enter and run at any licensed race track after the close of entries for the last racing day at the meet during which the horse was claimed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment to the rule is anticipated to increase the number of entries by claimed horses and the number of claims. A larger number of entries is anticipated to increase the field size of the race (number of horses entered in a race), which is anticipated to increase betting on a race, and ultimately the handle of the race. This will be an anticipated economic increase to the local and state governmental units, with the growth determined by the number of claimed horses entered into races.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment to the rule is anticipated to effect trainers, owners, and the licensed associations. The proposed rule is less restrictive to claimed horse entries than the current rule and allows owners and trainers to enter and race claimed horses during times that they currently are prohibited from entering. The licensed association race tracks are anticipated to see an increase in entries of claimed horses, potentially a larger field size in the races, and a larger handle.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
1711#009

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Homeland Security
and Emergency Preparedness**

Emergency Management Assistance Compact
(LAC 55:XXI.Chapter 7)

Pursuant to Act 246 of the 2017 Regular Session of the Legislature, revised and re-codified Revised Statute 29:733 regarding the Interstate Emergency Management Assistance Compact (EMAC), the Office of Homeland Security and Emergency Preparedness hereby proposes to adopt standards and regulations in accordance with the Administrative Procedures Act to implement the Emergency Management Assistance Compact in support of response and recovery operations within the State of Louisiana and coordinate resources to support other states requests for assistance.

In signing Act 246 into law, Louisiana adopted EMAC, a national interstate mutual aid agreement that enables states to share resources during times of disaster. Since the 104th US Congress ratified the compact, EMAC has grown to become the nation's system for providing mutual aid through operational procedures and protocols that have been validated through experience. EMAC is administered by the National Emergency Management Association (NEMA). EMAC acts as a complement to the federal disaster response system, providing timely and cost-effective relief to states requesting assistance from assisting member states who understand the needs of jurisdictions that are struggling to preserve life, the economy, and the environment. EMAC can be used either in lieu of federal assistance or in conjunction with federal assistance, thus providing a seamless flow of needed goods and services to an impacted state. EMAC further provides another venue for mitigating resource deficiencies by ensuring maximum use of all available resources within member states' inventories. On behalf of the governor of each state participating in the Compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this Compact. In Louisiana, the Director of the Governor's Office of Homeland Security and Emergency Preparedness

(GOHSEP), "director," bears that legal responsibility in accordance with R.S. 29:725.

Title 55

PUBLIC SAFETY

Part XXI. Homeland Security and Emergency Preparedness

Chapter 7. Emergency Management Assistance Compact

§701. Introduction

A. Definitions

Assisting State—a state that has adopted the EMAC and has agree to assist a State that has requested assistance through EMAC.

Director—director of the Governor's Office of Homeland Security and Emergency Preparedness.

EMAC A-Team—the EMAC advance team (A-Team) consists of a team of not less than two personnel from both in-state (receiving or home state), external (assisting state personnel), or a combination of the two whose primary responsibility is implementing the EMAC process in both the requesting and assisting states as assigned by the state emergency management director or the director's designee:

1. A-Team qualifications required:

a. trained personnel are selected by the state emergency management agency, qualified by completing the NEMA A-Team training course; and

b. serving as an A-Team member during an event or exercise.

2. the purpose of the A-Team is to provide trained personnel for rapid deployment when requested by impacted member states to coordinate interstate mutual aid efforts on their behalf. GOHSEP maintains a list of Louisiana's qualified A-Team members;

3. depending upon the scale of the incident, the staffing of the A-Team may expand from two personnel to as many as necessary to accomplish all of the A-Team functions. A-Teams may be comprised of in-state (home state) personnel, external (assisting state) personnel, or a combination of the two:

4. team's components include:

a. A-Team leader;

b. deputy A-Team leader; and

c. national guard A-Team member or liaison; and

5. the A-Teams do not have allocation authority, the authority to prioritize resource utilization, nor the ability to obligate state funds. This authority rests with the receiving state.

EMAC Authorized Representative(s)—the authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives.

EMAC Coordinator—the director may designate an EMAC coordinator and/or EMAC Authorized Representative(s) to administer the compact.

Emergency Support Function (ESF)—the Louisiana emergency operations plan identified 16 emergency support functions. Functions are categorized by the type of support or resource provided or managed within the national incident management system (NIMS) and its subcomponent the incident command system (ICS). During a response, both

federal and state ESFs are a critical mechanism to coordinate functional capabilities and resources provided by federal agencies, certain private-sector entities and NGOs.

Mission Ready Packages (MRP)—specific response and recovery capabilities that are organized, developed, trained, and exercised prior to an emergency or disaster based on NIMS resource typing considering the mission, limitations that might impact the mission, equipment, commodities, required support, the footprint of the space needed to stage and complete the mission, and the estimated costs. Mission ready packages also include credentialed personnel: those who are identified by the resource provider as having the knowledge, skills, and abilities needed to conduct that specific mission developed in cooperation with state emergency management agencies after being told that the resource would be valuable for use during intrastate or interstate mutual aid deployments.

Mutual Aid Support System (MASS 2.0)—a controlled access geospatial platform that is directly connected to the EMAC operations system (EOS) and is used by GOHSEP and other EMAC member states to share intrastate and interstate mutual aid information nationally.

NEMA—National Emergency Management Association.

Requesting State—A state that has adopted EMAC and has requested assistance and agreed to accept assistance through EMAC.

REQ-A—EMAC request for assistance form.

SEOC—state emergency operations center.

WebEOC—WebEOC is a web-based information management system that provides a single access point for the collection and dissemination of emergency or event-related information. During a declared emergency or event, all requests for resources must be input into the WebEOC through each parish's Office of Homeland Security and Emergency Preparedness or emergency operations center. The request will then be routed to the appropriate state or federal governmental entity to provide the requested resources. This system allows GOHSEP to track all requests and resources to insure that all needs are being met on the local lever and for purposes of reimbursement from the federal government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

§705. Requesting Assistance

A. If an emergency generates needs that grow beyond local, parish and state government, private industry and NGO resources, governments may procure needed resources from other states through EMAC. Requests may be verbal or in writing using a REQ-A.

B. The decision to request and deploy resources is made at the discretion of the impacted requesting state. The responding assisting state only has to offer assistance if they have the resources and can deploy them. At all times, impacted states retain the choice of seeking resource support from either state or federal, or both as may be appropriate for their circumstances. Local resources can be deployed under EMAC, as coordinated through the state EMAC coordinator.

C. The state emergency management director is the EMAC authorized representative and can designate both

EMAC authorized representatives and EMAC designated contacts in their agency. EMAC authorized representatives have the authority to obligate the state financially (make requests for resources to come into their state under an emergency declaration). EMAC designated contacts cannot financially obligate the state but can be contacted to get more information about EMAC coordination.

D. EMAC coordinating components are typed according to size, organizational composition, function, and mission requirements to meet operational demands.

E. Requesting EMAC Assistance when the SEOC is activated:

1. when the SEOC is activated for an event, the director or designee will determine the potential need for implementing the EMAC cell;

2. type I to type IV advance teams A-Team may be requested based on the magnitude of the event by the EMAC coordinator to coordinate resources via the compact;

3. resource needs are identified and the EMAC team is notified through WebEOC of the resource needs;

4. the decision to activate the EMAC personnel accountability and processing package (EPAPP mobilization unit) is made by the director or designee based upon whether or not there is a defined need;

5. the EMAC coordinator notifies the executive office of GOHSEP, the National Emergency Management Agency (NEMA) and the EMAC national coordinating state (NCS) of the event and that an EMAC A-Team will be activated and stood up in the SEOC;

6. the EMAC coordinator will open a new event in the EMAC operating system (EOS) and enter a situation report to notify the non-impacted EMAC states of the implementation of the compact. The EMAC coordinator and EMAC A-Team will begin contacting neighboring states and and/or do broadcast through the EOS to identify and locate the resource request based on the WebEOC requests received and anticipated needs. The coordination of EMAC related issues are accomplished via daily telephone conference calls with the national coordination state (NCS) and the national emergency management agency (NEMA). This includes potential resource needs, status of requests, and mobilization;

7. all WebEOC request for EMAC support must include the following information:

- a. event name or incident;
- b. requesting agency name and contact information;
- c. mission assignment;
- d. equipment, approximate type, size and number;
- e. resource quantity and duration of request;
- f. mobilization date (date needed);
- g. demobilization date (date released);
- h. agency staging area; and
- i. working and living conditions.
- j. health and safety concerns.

8. The EMAC coordinator will be responsible to brief the operations section chief, emergency support function (ESF) leads, and state agencies and to coordinate the activities of EMAC with the assisting states.

F. In certain emergency situations, verbal requests made by EMAC authorized representatives and the commitment of subsequent resources and funds may be obligated prior to the completion and appropriate signatures to the REQ-A. In

such cases the REQ-A must be completed and exchanged at the earliest opportunity and no later than 30 days of the verbal request.

1. An EMAC resource request can be received from any state or parish/county. The operations section will determine if it is an appropriate EMAC request and if the resource request requires EMAC action, the request will be tasked to EMAC via WebEOC to the EMAC coordinator or A-Team for fulfillment.

2. If the EMAC coordinator cannot locate an appropriate available resource, the EMAC coordinator will return the request to the operations section for alternative resources.

G. Resource request are made via the EOS and assisting states make offers based on availability and estimated cost of the resource being requested. If multiple offers are received for the same resource the EMAC coordinator will review offers with the designed EMAC authorized representative and or operations section chief along with the requesting state agency who will then determine which state will assist based on cost and availability of resource being requested.

H. The EMAC coordinator will monitor deployment of the resource, update the operations section on EMAC operations as required, maintain all EMAC reports, issue EMAC daily situation reports and update data on resource request in WebEOC as required. Monitor resource activity, coordinate additional logistics support as required, coordinate with assisting states, state agencies, national guard, national emergency management agency, national coordinating state and the FEMA-NRCC. Participate in daily conference calls with the national emergency management agency and national coordinating state.

I. EMAC tracking log and mission cost will be updated and maintained via WebEOC as REQ-A's are completed and resources mobilize and demobilize. The EMAC coordinator will maintain contact with the assisting state authorized representative and resource provider throughout the duration of the mission.

J. Upon completion of the mission, the assisting state will submit the EMAC claim to GOHSEP EMAC coordinator for the actual total cost of the mission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

§707. Providing Assistance

A. When another EMAC member state is either threatened or has been impacted by a disaster or emergency, the EMAC national chair, an EMAC state emergency management agency or an EMAC A-Team will notify a state directly or via the EMAC broadcast system the potential need for assistance. The resource request broadcast will be automatically sent to the EMAC designated contact, director and all EMAC authorized representatives. The EMAC coordinator will be the POC for the requesting states and the national coordinating state.

B. Director or designee may elect to bring the SEOC to level 2 activation and stand up the EMAC cell to support the planning and deployment of resources.

C. EMAC coordinator will gather any additional information for the EMAC request and forward to the director and authorized representatives as required.

D. Once the actual EMAC resource request is received and upon approval of the director or designee, the operations section will coordinate with the appropriate agencies and/or parishes to determine available resources and the EMAC coordinator will work with agencies and or parishes in obtaining the estimated cost required to fulfill the request.

E. Resource providers are encouraged to develop MRP's pre-event. Most equipment, personnel, commodities, supplies, and other costs can be compiled in advance of a potential deployment. Resource providers are encouraged to enter and maintain their MRPs in the MASS 2.0 system.

F. Upon receipt of the available resource MRP or cost information, the Operations section will provide this information to the EMAC coordinator. Once receipt of the signed section 1 or official verbal request the A-Team completes the section II of the REQ-A. The response to a request section II should be returned to the assisting state within 12 hours.

G. An authorized representative signs the REQ-A section II and the designated A-Team uploads the REQ-A into the EOS.

H. When the requesting state uploads section III of the REQ-A and or receives a verbal approval the EMAC coordinator will notify the authorized representatives that the mission has been approved. The EMAC coordinator will notify all responding and supporting agencies of the need to deploy and specifics of the mission.

I. A pre-deployment briefing should be provided by the supporting agency to the deploying personnel just prior to their departure. EMAC A-Team will provide the deploying personnel an EMAC mission order form which will include mission details the point of contact information, expected working conditions and GOHSEP reimbursement procedures.

J. EMAC coordinator will provide updates to the director, authorized representatives, operations section, and others as required on the status of missions and any anticipated changes.

K. Each agency is responsible for documenting its own costs. The resource provider is responsible for auditing travel vouchers, reimbursing deployed personnel for travel expenses and paying other eligible expenses incurred in connection with the EMAC mission deployment. All expenses incurred and paid by the resource provider are compiled and summarized on an EMAC intrastate reimbursement form.

L. Once the mission has been completed and all resources have returned the EMAC staff will gather all the documentation from the various agencies. Once the claim with the supporting documentation is received and reviewed for accuracy it will be submitted to the requesting state and finance for reimbursement. Finance will facilitate the disbursement of funds to the appropriate responding agencies, parishes, and municipalities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

§709. Reimbursement

A. Member-states who receive EMAC assistance during presidentially declared disaster and emergency events may be eligible for reimbursement of those costs through the

Stafford Act. The Federal Emergency Management Agency (FEMA) specifies cost eligibility for mission related EMAC costs in current FEMA policy. The assisting state is responsible for ensuring the preparation, retention and submission of documentation for reimbursement.

B. Prior to the deployment of Louisiana state assets the EMAC coordinator will be responsible to insure that the resource providers have received a copy of the Louisiana EMAC reimbursement guidelines.

C. EMAC coordinator is responsible for the collection of required information in connection with any requests for another state and submission to the requesting state for reimbursement.

D. GOHSEP Finance is responsible for the receipt and disbursement of funds in connection with the deployment of Louisiana assets to other states.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

§711. Mission Ready Packages (MRPs)

A. MRP's are specific response and recovery capabilities that are organized, developed, trained, and exercised prior to an emergency or disaster. MRP's are based on NIMS resource typing but take the concept one step further by considering the mission, limitations that might impact the mission, equipment, commodities, required support, the footprint of the space needed to stage and complete the mission, and the estimated costs. MRP's can include credentialed personnel, specifically those who are identified by the resource provider as having the knowledge, skills, and abilities needed to conduct that specific mission. Resource providers should develop MRPs in cooperation with state emergency management agencies after being told that the resource would be valuable for use during intrastate or interstate mutual aid deployments.

B. EMAC coordinator is responsible for implementation and update of this procedure, including yearly review and necessary updates, if any, of mission ready packages

C. EMAC coordinator should encourage and train on the development of MRP's by ESF leads and resource providers. Opportunities for development of new MRP's should be encouraged.

D. A complete list of current state MRPs is maintained by the EMAC coordinator or Authorized Representative.

E. MRPs should be forwarded to EMAC coordinator. Updates to MRP's should be forwarded to EMAC coordinator each year by December 31. EMAC coordinator will also provide updated personnel rates on an annual basis.

F. MRP training may be provided by the EMAC coordinator to state agencies representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

§713. Mutual Aid Support System (MASS 2.0)

A. The MASS 2.0 system is an online inventory of MRP's and is connected to the EMAC operations system (EOS) this system is used by GOHSEP and other EMAC member states to share intrastate and interstate mutual aid information nationally. The purpose of MASS 2.0 is to

improve communication between participating state EMAs and provide information on available personnel, equipment and other resources that may be accessed through EMAC:

1. resource providers must register and create an account on the EMAC website to enter their MRPs directly into MASS 2.0. If they choose not to create an account, the MRP can be forwarded to the EMAC coordinator to upload;

2. resource providers can only access their own MRPs however, the state EMA can give them permission to view other MRPs within their own state; and

3. the state EMA controls visibility of MRPs within their state inventory but can publish resources to EMAC so other state EMAs can view them within MASS and the EOS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:725 and 733.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 44:

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 should have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments or a request for public hearing to Danielle Aymond, Executive Counsel, Governor's Office of Homeland Security and Emergency Preparedness, 7667 Independence Blvd., Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on December 10, 2017.

James Waskom
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Management
Assistance Compact**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings to state or local governments. The proposed rules codify the provisions of Act 246 of the 2017 Regular Session of the Louisiana Legislature. The Act memorializes current processes and practices with regard to federal Emergency Assistance Compact Law, which are accomplished with current staffing and funding levels. There are no new or additional costs of implementation anticipated. This process is aided by the National Emergency Management Association (NEMA), which provides software and assistance free of charge to participating member states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules are not anticipated to affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed rules will not create costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rules are not anticipated to affect competition or employment.

Christina Dayries
Assistant Deputy Director
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Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

**Authorized Practice Registered Nurses and
Physician Collaboration (LAC 46:XLVII.Chapter 45)**

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. 37:918, that the Louisiana State Board of Nursing (LSBN) is proposing rule changes to Chapter 45, revisions to definitions and authorized practice under Title 46, Professional and Occupational Standards, Part XLVII, Sections 4505-4513. The proposed rules change the administrative management of the collaboration that can exist between an advanced practice registered nurse (APRN) and his/ her current and alternate collaborating physician (s). This change will allow for the collaborating physician to delegate his/her responsibility to one or two other physicians in order to streamline approval processes and improve the meaningfulness of the agreement to the collaborating professionals. The proposed change will also add or remove language from the following: (1) collaborative practice agreement; (2) practice site form; and (3) prescriptive authority application.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4505. Definitions

* * *

Advanced Practice Registered Nurse Student—Repealed.

* * *

Alternate Collaborating Physician (ACP)—a physician designated by a collaborating physician (CP) with whom an APRN has been previously approved to collaborate by the board, who agrees to serve in this capacity, and is available to the APRN for consultation and collaboration as delineated in the collaborative practice agreement signed by the CP. The ACP shall be a physician actively engaged in clinical practice and the provision of direct patient care in Louisiana who holds a current and valid medical license issued by the Louisiana State Board of Medical Examiners. The ACP shall be engaged in clinical practice in the same or a practice comparable in scope, specialty or expertise to that of the APRN. Physicians otherwise authorized to practice in the state of Louisiana under provisions of federal law may be considered to serve as an ACP. Retired physicians are not eligible to serve as an ACP. The ACP shall collaborate with the APRN at a practice site(s) previously submitted to the board that is affiliated with the CP who formally designates the ACP. The ACP is not approved directly through processes of the board.

Approval—Repealed.

Approved Program—Repealed.

* * *

Attestation of APRN Collaborative Practice—a form provided by the board and required to be submitted to the board for review and approval as indicated in rules and procedures to validate that an APRN possesses and retains a collaborative practice agreement with a specified CP or dentist and signed by the APRN and the specified CP or dentist that is associated with a practice site submitted to the board.

* * *

Collaborating Physician—Repealed.

Collaborating Physician (CP)—a physician with whom an APRN has been approved to collaborate by the board, who is actively engaged in clinical practice and the provision of direct patient care in Louisiana, with whom the APRN has developed and signed a collaborative practice agreement for prescriptive and distributing authority, who holds a current and valid medical license issued by the Louisiana State Board of Medical Examiners (LSBME), and practices in accordance with rules of the LSBME. The CP shall be engaged in clinical practice in the same or a practice comparable in scope, specialty or expertise to that of the APRN. Physicians otherwise authorized to practice in the state of Louisiana under provisions of federal law may be considered to serve as a CP. Retired physicians are not eligible to serve as a CP.

* * *

Collaborative Practice Agreement—

1. a formal written statement/document addressing the parameters of the collaborative practice which are mutually agreed upon by the advanced practice registered nurse and one or more collaborating physicians or dentists. Dentists shall be given consideration to serve as a collaborating professional within a collaborative practice agreement only with CRNAs for services relative to anesthesia care. The collaborative practice agreement shall include but not be limited to the following provisions:

- a. availability of the CP or dentist for consultation or referral, or both;
- b. methods of management of the collaborative practice which shall include clinical practice guidelines;
- c. coverage of the health care needs of a patient during any absence of the advanced practice registered nurse, physician, or dentist;

2. the APRN retains the collaborative practice agreement on site and attests to possessing and retaining such document by submitting an attestation to the board as required in rules and procedures.

*Cooperating Agency—*Repealed.

*Course—*Repealed.

*Curriculum—*Repealed.

*Distance Education—*Repealed.

*Distance Education Technology—*Repealed.

*Faculty—*Repealed.

*Goals—*Repealed.

*Major Change in Curriculum—*Repealed.

*National Nursing Accrediting Body—*Repealed.

National Professional Accrediting

*Organization—*Repealed.

*Objectives—*Repealed.

*Parent Institution—*Repealed.

*Philosophy—*Repealed.

*Population Focus—*term referenced in the National Council for State Boards of Nursing’s document entitled “Consensus Model for APRN Regulation: Licensure Accreditation, Certification, and Education” which refers to one of the areas of concentrated study and practice provided to a collection of specified individuals who have characteristics in common. A broad, population-based focus of study encompasses common problems and aspects of that group of patients and the likely co-morbidities, interventions, and responses to those problems. Examples include, but are not limited to neonatal, pediatric, women’s health, adult, family, mental health, etc. A *population focus* is not defined as a specific disease/health problem or specific intervention.

*Practice Site or Site—*for the purposes of clarifying prescriptive authority and collaborative practices, including but not limited to the provisions for CPs and ACPs, *practice site* or *site* refers to a location identified in documentation submitted by the APRN to the board at which an APRN exercises prescriptive authority or otherwise engages in advanced practice registered nursing including but not

limited to direct and indirect care of patients. A hospital and its clinics, ambulatory surgery center, nursing home, any facility or office licensed and regulated by the Department of Health, as well as a group or solo practice, which have more than one physical location shall be considered a *site* when the organizational policies and provisions provided by the managing entity are applicable to all affected locations including the policies delineated in §4513.D.1.f. Business entities that contract with facilities to provide services such as those provided by APRNs, may be considered a practice site separate from the facility depending upon the roles and responsibilities and agreements of the parties.

*Preceptorship Experience—*Repealed.

*Program Head (Administrative Director)—*Repealed.

*Requirements—*Repealed.

*Survey—*Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:724 (May 2001), amended LR 31:2013 (August 2005), LR 40:60 (January 2014), amended by the Department of Health, Board of Nursing, LR 44:

§4513. Authorized Practice

A. - D.1.c. ...

d. submit an application and *Attestation of APRN Collaborative Practice* on forms provided by the board with a non-refundable fee as set forth in LAC 46:XLVII.3341;

e. - e.v. ...

f. obtain and retain at the practice site a signed collaborative practice agreement on a form and template provided by the board and as defined in §4513.B.1, 2 and 3, with no more than two CPs per site which shall include, but not be limited to:

i. a plan of accountability among the parties that:

(a). defines the prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;

(b). delineates a plan for hospital and other healthcare institution admissions and privileges which includes a statement that the collaborating physician must have said privileges at the same institution before an APRN can receive this determination at said institution;

(c). delineates mechanisms and arrangements for diagnostic and laboratory requests for testing; and

(d). delineates a plan for documentation of medical records;

ii. clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic substitution for prescription and be in accordance with current standards of care and evidence-based practice for the APRN specialty and functional role and be:

(a). mutually agreed upon by the APRN and collaborating physician;

(b). specific to the practice setting;

(c). maintained on site; and

(d). reviewed and signed at least annually by the APRN and physician to reflect current practice;

iii. documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. A collaborating physician shall be available to provide consultation as needed:

(a). physician shall be available face-to-face, by telephone, or by direct telecommunications for consultation, assistance with medical emergencies, or patient referral, as delineated in the collaborative practice agreement; and

(b). in the event all of the collaborating physicians for a practice site previously submitted to the board are unavailable, the collaborating physician for the practice site may designate an ACP to be available for consultation and collaboration provided the following conditions are met:

(i). there is a formal, documented, approved, and enforceable organizational policy that allows and provides for designation of an alternate collaborating physician;

(ii). the organizational policy establishes and provides for documenting in writing such designation and such documentation will be available to LSBN and LSBME representatives when requested including the dates of the designation and name of the ACP (s);

(iii). the designated ACP must agree to the provisions of the collaborative practice agreement previously signed by the CP(s) as attested to and recognized by the board;

(iv). the designated ACP must meet the provisions as defined in the definition of ACP in LAC:XLVII:4505;

(v). the CP and the APRN are responsible for ensuring the policy is established and that the policy and designated ACP meets requirements;

(vi). the CP and APRN must have the authority to establish a policy at the practice site;

(vii). the CP may designate an ACP only at practice sites which were submitted to the board by the APRN that are associated with the CP that wishes to designate an ACP. The CP and APRN are not authorized to designate or utilize an ACP at a practice site not associated with the CP as recorded by the board which is derived from submissions of the APRN including attestations and forms required by the board:

[a]. in the event all CPs are unavailable at a site, and there is no designated ACP as provided for in §4513.D.1.f. iii.(b), the APRN will not medically diagnose nor prescribe;

[b]. any deviation from §4513.D.1.f regarding the limit of no more than two CPs per site shall be submitted to the board for review and approval with any and all documentation requested;

iv. documentation shall be shown that patients are informed about how to access care when both the APRN and/or the collaborating physicians are absent from the practice setting; and

v. an acknowledgement of the mutual obligation and responsibility of the APRN and collaborating physicians to insure that all acts of prescriptive authority are properly documented;

g. collaborative practice agreements approved prior to April 1, 2017 are subject to additional review and, if

directed by the board, APRNs shall revise previously approved collaborative practice agreements to comply with any and all provisions of this part including but not limited to the provision of an attestation and selection of no more than two CPs per site.

2. - 2.a...

i. The board shall review the application, reapplication or renewal, the *Attestation of APRN Collaborative Practice* and all related materials and shall approve, modify, or deny the application, reapplication or renewal for prescriptive authority. An APRN with prescriptive authority approved by the board may prescribe drugs and therapeutic devices as recommended by clinical practice guidelines and the parameters of the collaborative practice agreement.

ii. - v. ...

b. Controlled Substances. The board may authorize an APRN with prescriptive authority to prescribe or distribute controlled substances as defined, enumerated or included in federal or state statutes or regulations 21 CFR 1308.11-15, R.S 40:964, on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written, electronic, oral, or faxed prescriptions for controlled substances shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.2511:

i. - i.(c). ...

ii. any APRN authorized by the board to prescribe controlled substances shall comply with provisions in 21 U.S.C. §§821-831 including, but not limited to, obtaining and possessing an active Louisiana controlled dangerous substance license and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances;

iii. controlled substances which may be prescribed by an APRN shall include schedule II, III, IV and V. Controlled substances shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physicians and in the APRN's licensed role and population focus. The APRN must have been approved by the board to prescribe and distribute non-controlled substances. Upon initial application for controlled substance privileges, the applicant must submit an application and *Attestation of APRN Collaborative Practice* on forms provided by the board.

iv. the APRN must obtain and retain at the practice site a signed collaborative practice agreement on a form and template provided by the board and as defined in §4513.B.1-3 and as per §4513.D.1.f .with no more than two CPs per site. The collaborative practice agreement must clearly indicate that the controlled substances prescribed have been jointly agreed upon with the collaborating physician; The collaborative practice agreement shall delineate controlled substances utilization, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed;

v. - xi. ...

3. Responsibilities; Unexpected Absence of Collaborating Physician

a. The APRN is responsible for ensuring that the CP and ACP meet all eligibility requirements to serve as a CP

and ACP and that documentation has been provided to the board for review and approval in a timely manner and as required.

b. When an APRN has a single, sole CP for a practice site, the APRN may collaborate with the CP to identify an ACP prior to and in the potential event that the collaborative practice agreement ends for unpredictable or involuntary reasons directly affecting the CP (such as death, disability, incarceration, disappearance, unplanned relocation, etc.).

i. A physician serving as ACP for such unpredictable or involuntary reasons may serve in such capacity temporarily for at least 30, but no more than 120 days to provide for continuity of care of patients and to allow for the APRN to secure and submit an *Attestation of APRN Collaborative Practice* to the board.

ii. A physician serving as ACP for such unpredictable or involuntary reasons is exempt from the requirement to be engaged in clinical practice in the same or a practice comparable in scope, specialty or expertise to that of the APRN when appropriate referral and consultation resources are reasonably available.

iii. The APRN shall notify the board in writing within two business days if a physician is serving as ACP for unpredictable or involuntary reasons.

c. Per LAC 46:XLV.7915, when serving as the sole CP at a site, the CP shall give no less than 30-days notice when ending a collaborative practice agreement for predictable, voluntary reasons in order to provide for the care of patients.

4. Maintenance of Patient Records

a. Patient Record. An APRN who prescribes a controlled substance shall maintain a complete record of the examination, evaluation and treatment of the patient which must include documentation of the diagnosis and reason for prescribing controlled substances. The name, dose, strength, quantity of the controlled substance and the date that the controlled substance was prescribed must be documented in the record.

b. The Louisiana State Board of Nursing has the authority to conduct random audits of patient records, facility policies, and any other documents and elements related to the provision of patient care at practice sites where APRNs practice and/or exercise prescriptive authority.

5. Drug Maintenance, Labeling and Distribution Requirements

a. APRNs shall not receive samples of controlled substances. An APRN may receive and distribute pre-packaged medications or samples of non-controlled substances for which the APRN has prescriptive authority.

b. An APRN must distribute the medication. For the purpose of this regulation, "distribute" shall mean hand the pre-packaged medication to the patient or the patient's authorized agent.

c. All drug products which are maintained/stored at the site of practice of an APRN, shall be maintained/stored in the manufacturer's or re-packager's original package. The label of any container in which drugs are maintained must bear the drug name, strength, the manufacturer's control lot number and the expiration date.

d. All drug products shall be maintained, stored and distributed in such a manner as to maintain the integrity of the product.

6. Continued Competency for Prescriptive Authority. Each year an APRN with prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their advanced nursing role and population foci. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the request of the board in a random audit procedure at the time of the APRN's license renewal. In order for the continuing education program to be approved by the board, the program shall:

a. be provided by a board approved national certifying organization or provider approved by the board;

b. include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

7. APRN prescriptive authority may be renewed after review and approval by the board.

8. Changes in Prescriptive Authority. The APRN shall notify the board in writing requesting approval of all changes regarding physicians and practice sites including the addition and deletion of any collaborating physicians within 30 days.

a. Prior to adding new collaborating physician(s) or dentists(s) and sites concurrently (i.e. new employment) to prescriptive authority privileges, the APRN shall notify the board in writing requesting approval on forms provided by the board including an *Attestation of APRN Collaborative Practice*. A collaborative practice agreement on a form and template provided by the board and signed by the APRN and CPs must be retained on site at all times.

b. Prior to requesting the addition or replacement of collaborating physicians or dentist(s) at a site that has previously been submitted to the board, the APRN shall notify the board in writing requesting approval on forms provided by the board including an *Attestation of APRN Collaborative Practice*. A collaborative practice agreement on a form and template provided by the board and signed by the APRN and CPs must be retained on site at all times.

c. Failure to abide by all provisions of this part may result in disciplinary action.

9. The board shall be responsible for maintaining a current up-to-date public list of APRNs who have authority to prescribe in the state.

10. The board shall supply whatever data is needed by the Office of Narcotics and Dangerous Drugs of the Department of Health.

11. An APRN shall demonstrate compliance with the board's rules relating to authorized practice, LAC 46:XLVII.4513.C.

12. Limitation

a. An APRN's prescriptive and distributing authority is personal to that individual APRN and is not delegable. An APRN shall not enter into any agreement, arrangement or contract with another health care provider, practitioner, person or individual which in any manner transfers any of the prescribing or distributing authority that the APRN derives as a result of approval by the board.

b. Only registered practitioners of medicine, dentistry, or veterinary medicine are authorized to compound and dispense drugs in accord with R.S. 37:1201.

c. Exclusion. Nothing herein shall require a CRNA to have a collaborative practice agreement to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility.

i. Anesthesia care includes modalities associated with the delivery of anesthesia. Anesthesia care provided by a CRNA shall be in accord with the educational preparation of that CRNA in compliance with R.S. 37:930(A)(3) and includes:

(a). the administration, selection, and prescribing of anesthesia related drugs or medicine during the perioperative period necessary for anesthesia care; and

(b). prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances necessary for anesthesia care.

ii. Ancillary services provided by CRNAs shall be in accordance with R.S. 37:930(A)(3):

(a). shall include services provided by a CRNA in accord with the educational preparation of that CRNA;

(b). shall be pursuant to a consult for the service by a licensed prescriber if the services are not directly related to anesthesia care; and

(c). may include prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances for assessment, administration or application while the patient is in the hospital or other licensed surgical facility in the state of Louisiana.

iii. Nothing herein shall provide for services by a CRNA which are otherwise prohibited by law.

d. Continuance. Those APRNs who have previously been granted prescriptive and distributing authority by the Joint Administrative Committee or the LSBN shall continue under these rules.

e. Reinstatement. An APRN who has been granted approval by the board for prescriptive and distributive authority and who has ceased practicing with prescriptive authority for more than 12 months may apply for reinstatement of such authority.

f. In the event that the time period is greater than 12 months but less than four years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.D.1.a, b., and c; and

ii. provide evidence of six contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN may obtain the required advanced pharmacotherapeutic hours through continuing education offerings. The required advanced pharmacotherapeutic hours may be non-lecture offerings or continuing medical education units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. Pharmacotherapeutics hours must be delineated on the certificate. In order for the continuing education program to be approved by the board, the program shall:

(a). be provided by a board-approved national certifying organization or provider approved by the board; and

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

g. In the event that the time period is greater than four years, the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.D.1.a-e.i.

13. Failure to abide by any provision of rules relative to prescriptive authority may result in formal disciplinary action. The board may suspend or revoke prescriptive authority privileges, including controlled substance privileges, for violations of the Nurse Practice Act and subsequent rules and regulations.

14. The requirements and directives for submission of a collaborative practice agreement noted in declaratory statements or opinions issued prior to April 1, 2017 are considered to have been met through submission of an *Attestation of APRN Collaborative Practice* and retaining of the collaborative practice agreement on site that meets the provisions of current rules and provisions detailed in the statement or opinion.

15. Termination of Prescriptive Privileges

a. Prescriptive privileges may be terminated for violation of any rules and regulations of the board.

b. Prescriptive authority will be designated as "inactive" when an APRN has no current collaborative practice agreement with a collaborating physicians.

c. Prescriptive authority will be designated as "inactive" in the event the RN and/or APRN license is revoked, suspended, made inactive or becomes delinquent.

16. Financial Disclosure

a. The APRN is subject to the rules in LAC 46:XLVII.3605, Required Disclosure of Financial Interests.

17. Freedom of Choice

a. An APRN shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier or other health care related business.

b. Patients are entitled to the same freedom of choice in selecting who will fill their prescription needs as they are in the choice of an APRN. The prescription is a written or electronic direction for a therapeutic or corrective agent. A patient is entitled to a copy of the APRN's prescription for drugs or other devices. The patient has a right to have the prescription filled wherever the patient wishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:572 (April

2016), amended by the Department of Health, Board of Nursing, LR 44:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before December 10, 2017.

Dr. Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Authorized Practice Registered Nurses and Physician Collaboration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in any additional costs or savings to state or local governmental units other than one-time publication costs of the proposed amendments, which total approximately \$850 in FY 18. The proposed rule changes alter the administrative management of collaborations between an Advanced Practice Registered Nurse (APRN) and their current and alternate collaborating physician(s) (CP). This change will allow for the CP to delegate his/her responsibility to one or two other alternate collaborating physicians.

The proposed rule changes also make technical changes to provisions regarding collaborative practice agreements, practice sites forms, and prescriptive authority application. Furthermore, the proposed rules remove redundant definitions that are currently in Chapter 35 of the Louisiana State Board of Nursing, as well as other grammatical and non-substantive technical corrections.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local government revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes place the responsibility of documenting physicians at a practice site as alternative collaborating physicians (ACPs) on CPs and APRNs who wish to utilize ACPs. Furthermore, APRNs must notify the LA State Board of Nursing within two business days in the event a CP is absent unexpectedly. This workload increase is nominal and likely does not carry any associated cost.

The proposed rule changes will also benefit CPs and APRNs by allowing them to practice with alternate collaborating physicians (ACPs) at practice sites to the extent the ACP holds a valid license issued by the LA State Board of Medical Examiners and is engaged in practice that is comparable in scope, specialty, and expertise of the APRN. Once a CP and an APRN designate an ACP, the APRN will be able to continue practicing at a given site in the event their CP is absent but their ACP is present. Additionally, APRNs benefit in the event a CP is unexpectedly absent due to death, disappearance, or other circumstances, as the proposed rules include provisions allowing APRNs to temporarily practice under an ACP for 30-120 days even if the ACP is not engaged in the same scope of practice as the APRN.

Furthermore, patients under the care of an APRN will benefit, as they will be able to continue receiving treatment from APRNs who will be able to continue providing care under the purview of an ACP.

Lastly, the proposed rule changes affect dentists by limiting the types of APRNs that they may enter into collaborative practice agreements with to Certified Registered Nurse Anesthetists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Karen C. Lyon
Executive Director
1711#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Veterinary Medicine**

Continuing Education and Professional Conduct
(LAC 46:LXXXV.403, 1015, 1019, and 1227)

The Louisiana Board of Veterinary Medicine proposes to adopt LAC 46:LXXXV.403 and 1227, amend §1015.A and repeal §§1015.B and 1019, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518A(9) and 37:1533. The board is vested with the authority to regulate the practice of veterinary medicine to

insure the health, welfare, and protection of the animals and the public.

The proposed rules regarding continuing education (§§403 and 1227) are being adopted to require specific courses/programs regarding drug diversion training, best practice of prescribing controlled dangerous substances, appropriate treatment for addiction, and any other matters that are deemed appropriate by the veterinary board in accordance with Act 76 of the 2017 Regular Session of the Legislature; and the proposed rules regarding §§1015.A are amended, and 1015.B and 1019 are repealed, to remove the prohibition to non-veterinarian ownership of a veterinary practice, but retain regulatory accountability by the board over licensed veterinarians and the hands-on/decision making authority over the practice of veterinary medicine.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarian

Chapter 4. Continuing Education

§403. Continuing Veterinary Education Requirements

A. - A.3. ...

4. Effective August 1, 2017, a veterinarian with prescriptive authority who holds a controlled dangerous substances (CDS) license with the LA Board of Pharmacy shall obtain three CE hours for veterinary licensure renewal which shall include drug diversion training, best practice of prescribing controlled dangerous substances, appropriate treatment for addiction, and any other matters that are deemed appropriate by the veterinary board. Successful completion of this requirement once shall satisfy the requirement in full. However, an exemption for the three CE hours is available for the veterinarian with prescriptive authority who holds a controlled dangerous substances (CDS) license if he timely submits an annual certification form as adopted by the veterinary board attesting that he has not prescribed, administered, or dispensed a controlled dangerous substance during the entire applicable reporting period. The required three CE hours set forth herein may be a component part of the annual 20 hours of CE for licensure renewal, and may be part of the on-line allowance. No license shall be renewed for a veterinarian who fails to comply with this CE requirement or the exemption.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002), LR 33:649 (April 2007), repromulgated LR 33:847 (May 2007), amended LR 36:319 (February 2010), LR 37:1152 (April 2011), LR 44:

Chapter 10. Professional Conduct

§1015. Personal Responsibility of Licensee

A. It is unlawful for a person to practice veterinary medicine, as defined in the Louisiana Veterinary Practice Act and the board's rules, who does not possess a current license issued by the board, unless he falls within an exception defined in section 1514 of the Practice Act and/or the board's rules. The reason for the license requirement is to insure that any person involved in the actual practice of

veterinary medicine, including the control of decision-making authority regarding veterinary patient care, is amenable to professional regulation and discipline by the board in order to protect the public and animals. The license is personal and individual to the veterinarian holder to lawfully practice veterinary medicine. The owner, member, officer, or director of a business entity, such as a partnership, corporation, or limited liability company, with a function that includes the provision of veterinary medicine does not have to possess a license issued by the board; however, the actual practitioner of veterinary medicine involved in patient care must be licensed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), amended LR 25:1628 (September 1999), LR 31:928 (April 2005), LR 44:

§1019. Employment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), repealed LR 44:

Chapter 12. Certified Animal Euthanasia Technicians

§1227. Continuing Education

A. - A.5. ...

6. Effective August 1, 2017, a CAET with prescriptive authority who holds a controlled dangerous substances (CDS) license with the LA Board of Pharmacy shall obtain 3 CE hours for certification renewal which shall include drug diversion training, best practice of prescribing controlled dangerous substances, appropriate treatment for addiction, and any other matters that are deemed appropriate by the veterinary board. The required three CE hours set forth herein may be a component part of the annual six hours of CE for certification renewal. Successful completion of this requirement once shall satisfy the requirement in full. However, an exemption for the three CE hours is available for the CAET with prescriptive authority who holds a controlled dangerous substances (CDS) license if he timely submits an annual certification form as adopted by the veterinary board attesting that he has not prescribed, administered, or dispensed a controlled dangerous substance during the entire applicable reporting period. The required three CE hours set forth herein may be a component part of the annual six hours of CE for certification renewal, and may be part of the on-line allowance. No certification shall be renewed for a CAET who fails to comply with this CE requirement or the exemption.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:321 (February 2000), amended LR 36:320 (February 2010), LR 37:1153 (April 2011), LR 44:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, the following family impact statements will be published in the Louisiana Register with the Rules.

1. The Effect on the Stability of the Family. The board anticipates 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. The board anticipates 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. The board anticipates no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The board anticipates no significant adverse effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The board anticipates no 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 Rules. The board anticipates no effect on the ability of the family or a local government to perform the function as contained in the Rules.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, the following poverty impact statements will be published in the Louisiana Register with the Rules.

1. The Effect on Household Income, Assets, and Financial Security. The board anticipates no significant adverse effect on household income, assets, and financial security.

2. The Effect on Early Childhood Development and Pre-school through Post-Secondary Education Development. The board anticipates no effect on early childhood development and pre-school through post-secondary education development regarding the Rules.

3. The Effect on Employment and Workforce Development. The board anticipates no significant effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The board anticipates no significant adverse effect on taxes and tax credits regarding the Rules.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The board anticipates no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance regarding the Rules.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, the following regulatory flexibility analysis will be published in the Louisiana Register with the Rules. With regards to the specific subject matter of the continuing education created by the rules, such may be used to partially satisfy the existing total annual continuing education hourly requirements and, therefore, there is no anticipated impact on small businesses. The rules which amend and repeal the non-veterinarian ownership prohibition will enable some veterinarians to advance their respective practices for the evolving needs of clients and patients by an infusion of money, and perhaps business talent and equipment. It will also allow practices owned by veterinarians to be sold at arm's length transactions by

veterinarians, and their survivors, to a broader category of potential buyers. It is further noted that a growing number of recent veterinarian graduates are electing to work for an existing veterinary practice as opposed to opening their own practice. Some practitioners may potentially experience more business/market-share competition, however, it is anticipated that the rules will provide more employment opportunity for veterinarians, registered veterinary technicians, and staff, as well as more availability of veterinary services to consumers at competitive prices. Under any scenario, the board will continue to discharge its administrative obligations by holding its licensees personally accountable for the hands-on practice of veterinary medicine regardless of who may own the business entity.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no anticipated significant changes in record keeping or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no anticipated changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no anticipated adverse effects on compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards in the Proposed Rules. There are no anticipated significant changes in design or operational standards in the rules.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Rules. There are no exemptions for small businesses in the rules.

Provider Impact Statement

In accordance with HCR 170 of the 2014 Regular Legislative Session, the following provider impact statement will be published in the Louisiana Register with the Rules.

1. Staffing Level Requirements or Qualifications. It is not anticipated that the rules will have any significant impact on the effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Direct and Indirect Effect of Costs. It is not anticipated that the rules will have any significant impact on the total direct and indirect effect on the cost to providers to provide the same level of service.

3. Ability to Provide Same Level of Service. It is not anticipated that rules will have any significant impact on the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested parties may submit written comments to Wendy D. Parrish, Executive Director, Louisiana Board of Veterinary Medicine, 301 Main Street, Suite 1050, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on Thursday, December 21, 2017. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be

held on Thursday, December 28, 2017, at 10 am at the office of the Louisiana Board of Veterinary Medicine, 301 Main Street, Suite 1050, Baton Rouge, LA 70801.

Wendy D. Parrish
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education
and Professional Conduct**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any additional costs or savings for state or local governmental units.

The proposed rule changes include new provisions associated with Act 76 of the 2017 Regular Session regarding certifications for Controlled Dangerous Substance (CDS) licenses for veterinarians and Certified Animal Euthanasia Technicians (CAETs). Included in the new provisions is a one-time continuing education requirement for veterinarians and CAETs holding a CDS license regarding controlled dangerous substances that may be included as part of a veterinarian's or CAET's continuing education requirements. Furthermore, the provisions include an exception to the continuing education requirement if a veterinarian or a CAET has not prescribed, dispensed, or administered a controlled dangerous substance during the applicable reporting period.

Furthermore, the proposed rule changes repeal and amend provisions associated with the prohibition of non-veterinarians owning veterinary clinics. However, the proposed rule changes maintain that persons practicing veterinary medicine at a clinic must hold a proper veterinary license remains.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes repeal provisions prohibiting non-veterinarians from owning veterinary practices, which creates a potential economic benefit for non-veterinarians, as they may now own veterinary practices. Furthermore, allowing non-veterinarians to own veterinary practices may allow practicing veterinarians to advance their respective practices for the evolving needs of clients and patients by an infusion of financial resources from non-veterinarians, as well as potentially create employment opportunity for veterinarians, registered veterinary technicians, and support staff (See Part IV). The proposed rule changes will also allow practices owned by veterinarians to be sold to a broader category of potential buyers in cases such as death or retirement. Furthermore, consumers may benefit by realizing lower prices in the event more clinics backed by non-veterinarian operators open and there is increased competition among veterinary clinics. However, in the event of consolidation of veterinary clinics under a single owner or ownership groups, consumers may realize flat or increased prices as a result of decreased competition (See Part IV).

The proposed rule changes regarding continuing education and CDS licenses requirements for veterinarians and CAETs holding CDS licenses do not carry any economic benefits or costs. The on-time continuing education course regarding controlled dangerous substances can be used to fulfill part of the existing continuing education requirements for CAETs and veterinarians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change repealing the prohibition of non-veterinarians owning veterinary clinics may increase or decrease competition among veterinary clinics. The proposed rule changes allow for more clinics to open via relaxed ownership restrictions, which may allow for more competition among them as more clinics begin operating. However, the proposed rule changes also provide an avenue for several clinics to be purchased and consolidated into a single ownership group, which may decrease competition as a result of more clinics being operated by the same owner or owners. The effect of the proposed rule change cannot be determined because the number of non-veterinary entrants into this new market, as well as their available financial resources and business plans, is unknown. However, competition will likely be affected in the aggregate.

Furthermore, the proposed rule changes may provide more employment opportunity for veterinarians, registered veterinary technicians, and support staff to the extent more veterinary clinics owned and backed by non-veterinarian owners open.

Wendy D. Parrish
Executive Director
1711#071

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Behavioral Health Services

**Healthy Louisiana and Coordinated System of Care Waiver
(LAC 50:XXXIII.101, 103, 301, 501, and 701)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 1-7 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing the Healthy Louisiana and Coordinated System of Care (CSoC) Waiver in order to: 1) reflect the CSoC contractor moving from a non-risk contract to a full-risk capitated contract; 2) clarify the CSoC contractor procurement process; 3) remove the requirements for mandatory enrollment of CSoC participants and OBH certification of providers; and 4) clarify the grievance and appeals process.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 1. Healthy Louisiana and Coordinated System of Care Waiver

Chapter 1. Managed Care Organizations and the Coordinated System of Care Contractor

§101. General Provisions

A. - B. ...

C. Managed care organizations shall operate as such, and the CSoC contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs and the CSoC contractor were procured through a competitive request for proposal (RFP) process. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families' homes, communities, schools and jobs.

D. - D.4. ...

E. The CSoC contractor shall be paid on a risk basis for specialized behavioral health services rendered to children/youth enrolled in the Coordinated System of Care Waiver. The MCOs shall be paid on a risk basis for specialized behavioral health and physical health services rendered to adults and children/youth.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2353 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:321 (February 2017), LR 44:

§103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants for integrated specialized behavioral health and physical health services:

1. - 12. ...

* * *

B. Mandatory participants shall be automatically enrolled and disenrolled from the MCOs.

C. - D. ...

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 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:321 (February 2017), LR 44:

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

A. ...

B. MCOs and the CSoC contractor shall:

1. - 4. ...

5. contract only with providers of services who are licensed and/or certified according to state laws, regulations, rules, the provider manual and other notices or directives issued by the department, meet the state of Louisiana credentialing criteria and enrolled with the Bureau of Health Services Financing, or its designated contractor, after this requirement is implemented;

6. ensure that contracted rehabilitation providers are employed by a rehabilitation agency or clinic licensed and authorized under state law to provide these services;

7. - 10.c. ...

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 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 2017), LR 44:

Chapter 5. Reimbursement

§501. General Provisions

A. For recipients enrolled in one of the MCOs or with the CSoC contractor, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs or CSoC contractor.

1. The capitation rates paid to the MCOs or CSoC contractor shall be actuarially sound rates.

2. The MCOs or CSoC contractor will determine the rates paid to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

B. 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, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:2356 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 7. Grievance and Appeals Process

§701. General Provisions

A. ...

B. An enrollee, an enrollee's authorized representative or a provider on behalf of an enrollee, with the enrollee's prior written consent, has 60 calendar days from the date on the notice of action in which to file an appeal.

C. An enrollee, an enrollee's authorized representative or a provider on behalf of an enrollee, with the enrollee's prior written consent, may file a grievance at any time after an occurrence or incident which is the basis for the grievance.

D. - 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, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2356 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 2017), LR 44:

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.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Behavioral Health Services Healthy Louisiana and Coordinated System of Care Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$432 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Healthy Louisiana and Coordinated System of Care (CSoC) Waiver in order to: 1) reflect the CSoC contractor moving from

a non-risk contract to a full-risk capitated contract; 2) clarify the CSoC contractor procurement process; 3) remove the requirements for mandatory enrollment of CSoC participants and Office of Behavioral Health certification of providers; and 4) revise the grievance and appeals process. It is anticipated that implementation of this proposed rule will have no fiscal impact to behavioral health waiver services providers for FY 17-18, FY 18-19 and FY 19-20. The current payments made to the CSoC contractor are the basis of the capitated rate development for the full-risk contract. Shifting the payment mechanism is not anticipated to have more than a nominal impact on the overall cost of the waiver program, given its maturity, since the program itself will remain substantially the same.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#056

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14101, 14301, 14303, 14501, and 14701)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 141-147 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing substance use disorders (SUD) services rendered to children and adults in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for OBH certification of providers and for prior approval of SUD services; 3) clarify the exclusion criteria for institutes for mental disease; and 4) clarify the requirements for residential addiction treatment facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for substance use disorders (SUD) services rendered to children and adults. These services shall be administered under the authority of the Department of Health (LDH), in collaboration with managed care organizations (MCOs) and

the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children and youth enrolled in the CSoC program.

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, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 143. Services

§14301. General Provisions

A. ...

B. American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.

D. Children who are in need of SUD services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

E.1. - F. 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, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

§14303. Covered Services

A. - A.3. ...

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 3. ...

4. services rendered in an institute for mental disease unless provided through Code of Federal Regulations "allowed in lieu of", or a U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved waiver; and

5. ...

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. - C. ...

D. Anyone providing SUD services must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

E. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.

F. - F.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, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 147. Reimbursement

§14701. General Provisions

A. For recipients enrolled with the CSoC contractor, the department or its fiscal intermediary shall make monthly capitation payments to the CSoC contractor, exclusive of coverage for residential substance use treatment services.

1. The capitation rates paid to the CSoC contractor shall be actuarially sound rates.

2. The CSoC contractor will determine the rates paid to its contracted providers.

a. No payments shall be less than the minimum Medicaid rate.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs inclusive of coverage for the provision of residential substance use services for recipients enrolled in CSoC.

1. The capitation rates paid to the MCOs shall be actuarially sound rates.

2. The MCOs will determine the rates paid to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:3301 (December 2013), LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

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.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118,

Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Behavioral Health Services Substance Use Disorders Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$486 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing substance use disorders (SUD) services rendered to children and adults in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for Office of Behavioral Health certification of providers; 3) remove blanket requirement for prior authorization of SUD services; 4) clarify the exclusion criteria for institutes for mental disease; and 5) clarify the requirements for residential addiction treatment facilities. It is anticipated that implementation of this proposed rule will have no fiscal impact to behavioral health providers of SUD services for FY 17-18, FY 18-19 and FY 19-20. The current payments made to the CSoc contractor are the basis of the capitated rate development for the full-risk contract. Shifting the payment mechanism is not anticipated to have more than a nominal impact on the overall cost of the wavier program, given its maturity, since the program itself will remain substantially the same. The change to prior authorizations is not anticipated to have any direct impact on members or providers, as it is a technical change to align with current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#057

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Children's Behavioral Health Services
(LAC 50:XXXIII.Chapters 21-27)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing children's behavioral health services in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for OBH certification of providers and for prior approval of services; and 3) clarify the exclusion criteria for services rendered by institutes for mental disease.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 3. Children's Mental Health Services

Chapter 21. General Provisions

§2101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for mental health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health (LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children and youth enrolled in the coordinated system 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 23. Services

§2301. General Provisions

A. ...

B. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems

should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or youth in state custody must request and approve the provision of services to the recipient.

C. Children who are in need of specialized behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

D. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

1. - 3.c. Repealed.

E. Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care.

F. 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

§2303. Covered Services

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. ...

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation (PSR);

3. - 4. ...

B. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:

1. - 3. ...

4. services rendered in an institute for mental disease other than a psychiatric residential treatment facility (PRTF) or an inpatient psychiatric hospital; and

5. ...

C. - C.4. 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 25. Provider Participation

§2501. Provider Responsibilities

A. - B. ...

C. Anyone providing specialized behavioral health services shall be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

D. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care or treatment plan;
 2. the name of the individual;
 3. the dates of service;
 4. the nature, content and units of services provided;
 5. the progress made toward functional improvement;
- and
6. the goals of the plan of care or treatment plan.

E. - E.6. 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 27. Reimbursement

§2701. General Provisions

A. For recipients enrolled with one of the MCOs or CSoc contractor, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs or the CSoc contractor.

1. The capitation rates paid to MCOs or the CSoc contractor shall be actuarially sound rates.

2. The MCOs or the CSoc contractor will determine the rates paid to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

B. 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, Bureau of Health Services Financing, LR 38:365 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

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.

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Children's Behavioral Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$540 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing children's behavioral health services in order to: 1) reflect the CSoc contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for Office of

Behavioral Health (OBH) certification of providers and for prior approval of services; and 3) clarify the exclusion criteria for services rendered by institutes for mental disease. It is anticipated that implementation of this proposed rule will not have economic cost or benefit to children's behavioral health services providers for FY 17-18, FY 18-19 and FY 19-20. The current payments made to the CSoc contractor are the basis of the capitated rate development for the full-risk contract. Shifting the payment mechanism is not anticipated to have more than a nominal impact on the overall cost of the wavier program, given its maturity, since the program itself will remain substantially the same

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#058

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments
Major Medical Centers
(LAC 50:V.2715)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.2715 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish a qualification criteria and disproportionate share hospital (DSH) payment methodology for major medical centers located in the central and northern areas of Louisiana (*Louisiana Register*, Volume 42, Number 7).

In order to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) requirements and the associated approved Medicaid State Plan amendment, the department promulgated an Emergency Rule which amended the provisions of the June 30, 2016 Emergency Rule (*Louisiana Register*, Volume 43, Number 2). This proposed Rule is being promulgated in order to continue the provisions of the February 20, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2715. Major Medical Centers Located in Central and Northern Areas of the State

A. Effective for dates of service on or after June 30, 2016, hospitals qualifying for payments as major medical centers located in the central and northern areas of the state shall meet the following criteria:

1. be a private, non-rural hospital located in Department of Health administrative regions 6, 7, or 8;

2. have at least 200 inpatient beds as reported on the Medicare/Medicaid cost report, Worksheet S-3, column 2, lines 1-18, for the state fiscal year ending June 30, 2015. For qualification purposes, inpatient beds shall exclude nursery and Medicare-designated distinct part psychiatric unit beds;

3. does not qualify as a Louisiana low-income academic hospital under the provisions of §3101; and

4. such qualifying hospital (or its affiliate) does have a memorandum of understanding executed on or after June 30, 2016 with Louisiana State University, School of Medicine, the purpose of which is to maintain and improve access to quality care for Medicaid patients in connection with the expansion of Medicaid in the state through the promotion, expansion, and support of graduate medical education and training.

B. Payment Methodology. Effective for dates of service on or after June 30, 2016, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment.

a. Additional payments shall only be made after finalization of the Centers for Medicare and Medicaid Services' (CMS) mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this Section, based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid hospitals shall be paid on a pro rata basis calculated using each hospital's amount underpaid, divided by the sum of underpayments for all of the hospitals described in this Section.

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, Bureau of Health Services Financing, LR 44:

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disproportionate Share Hospital Payments—Major Medical Centers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$13,115,673 for FY 17-18, \$12,796,946 for FY 18-19 and \$12,796,946 FY 19-20. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The state match shall be

funded through an intergovernmental transfer of funds from the qualifying hospital services providers. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$22,660,614 for FY 17-18, \$22,978,693 for FY 18-19 and \$22,978,693 for FY 19-20. It is anticipated that \$324 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the June 30, 2016 and February 20, 2017 Emergency Rules which adopted provisions to establish a qualification criteria and disproportionate share hospital (DSH) payment methodology for major medical centers located in the central and northern areas of Louisiana (five qualifying hospitals are impacted by these provisions). It is anticipated that implementation of this proposed rule will have economic benefits to qualifying hospital service providers and will increase programmatic expenditures for DSH payments by approximately \$35,775,639 for FY 17-18, \$35,775,639 for FY 18-19 and \$35,775,639 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the increase in payments may have a positive impact the financial standing of providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1711#059

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Facility Need Review
Behavioral Health Services Providers
(LAC 48:I.Chapter 125)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 125 as authorized by R.S. 36:254 and R.S. 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing the facility need review (FNR) process in order to adopt provisions to include behavioral health services providers of psychosocial rehabilitation and/or community psychiatric support and treatment services in the FNR program.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review
Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

* * *

Behavioral Health Services (BHS)—mental health services, substance abuse/addiction treatment services, or combination of such services, for adults, adolescents and children.

Behavioral Health Services Provider—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services or, presents itself to the public as a provider of behavioral health services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 41:2636 (December 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§12503. General Information

A. - B. ...

C. The department will also conduct an FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities;

5. pediatric day health care facilities; and

6. behavioral health services (BHS) providers that provide psychosocial rehabilitation (PSR) and/or community psychiatric support and treatment (CPST) services.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs/DD, ADHC providers, hospice providers, BHS providers, and pediatric day health care centers that meet one of the following conditions:

1. ...

2. existing licensed ICFs-DD that are converting to the Residential Options Waiver;

3. - 5.c. ...

d. became licensed as a PDHC by the department no later than December 31, 2014;

6. behavioral health services providers that are licensed to provide PSR and/or CPST, or that have submitted a completed application for licensure as a BHS provider that includes PSR and/or CPST, prior to promulgation of this Rule; and

7. behavioral health services (BHS) providers that fall within the provisions of Act 33 of the 2017 Regular Session of the Louisiana Legislature, commonly referred to as accredited mental health rehabilitation providers, that submit a completed BHS provider licensing application by December 1, 2017 and become licensed by April 1, 2018.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July 2012), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12524. Behavioral Health Services Providers

A. Except as noted in Paragraph B below, no behavioral health services (BHS) providers or applicants seeking to provide psychosocial rehabilitation (PSR) and/or community psychiatric support and treatment (CPST) services shall be eligible to apply for licensure to provide PSR and/or CPST services unless the FNR Program has granted an approval for the issuance of a BHS provider license for such services. Once the FNR Program approval is granted, a BHS provider is eligible to apply for a BHS provider license to provide PSR and/or CPST services.

B. BHS providers who fall within the provisions of Act 33 of the 2017 Regular Session of the Louisiana Legislature, commonly referred to as accredited mental health rehabilitation providers, are required to submit a BHS provider licensing application by December 1, 2017 and become licensed by April 1, 2018.

1. Beginning December 2, 2017, such an “Act 33” BHS provider that failed to submit its completed licensing application by December 1, 2017, shall be subject to FNR and shall not be eligible to apply for licensure to provide PSR and/or CPST services unless the FNR Program has granted an approval for the issuance of a BHS provider license for such services. Once the FNR Program approval is granted, such a BHS provider is eligible to apply for a BHS provider license to provide PSR and/or CPST services.

2. Beginning April 2, 2018, such an “Act 33” BHS provider that submitted its completed licensing application by December 1, 2017, but failed to become licensed by April 1, 2018, shall be subject to FNR and shall not be eligible to apply for licensure to provide PSR and/or CPST services unless the FNR Program has granted an approval for the issuance of a BHS provider license for such services. Once the FNR Program approval is granted, such a BHS provider is eligible to apply for a BHS provider license to provide PSR and/or CPST services.

C. The service area for proposed or existing BHS providers shall be the parish in which the provider is licensed and parishes directly adjacent to said parish.

D. Determination of Need/Approval

1. The department shall review the FNR application to determine if there is a need for an additional BHS provider to provide PSR and/or CPST services in the service area.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR and/or CPST services if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other BHS providers providing PSR and/or CPST services in the same geographic location and service area servicing the same population;

b. the number of members that the BHS provider is able to provide PSR and/or CPST services to; and

c. allegations involving issues of access to behavioral health PSR and/or CPST services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR and/or CPST services if the provider is not granted approval to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

E. Applications for approvals of BHS providers of PSR and/or CPST services submitted under these provisions are bound to the description in the application with regard to the type of services proposed, as well as to the site and location as defined in the application. FNR approval of such providers shall expire if these aspects of the application are altered or changed.

F. Facility need review approvals for behavioral health PSR and/or CPST applicants are non-transferrable and are limited to the location and the name on the original licensee.

1. A BHS provider of PSR and/or CPST services undergoing a change of location in the same licensed region shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A BHS provider undergoing a change of location outside of the licensed region shall submit a new completed FNR application and required fee and undergo the FNR approval process.

2. A BHS provider of PSR and/or CPST services undergoing a change of ownership shall submit a new completed application and required fee to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which shall show the seller's or transferor's intent to relinquish the FNR approval.

3. Facility need review approval of a licensed BHS provider of PSR and/or CPST services shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

4. Facility need review approved BHS providers of PSR and/or CPST shall become licensed no later than one year from the date of the FNR approval. Failure to meet any of the time frames in this section shall result in an automatic expiration of the FNR approval of the BHS provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 44:

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review Behavioral Health Services Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,080 (SGF) will be expended in FY 17-18 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the

licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the facility need review (FNR) process in order to adopt provisions to include behavioral health services providers of psychosocial rehabilitation and/or community psychiatric support and treatment services in the FNR program. It is anticipated that the implementation of this proposed rule will have no economic costs to behavioral health services providers for FY 17-18, 18-19 and 19-20, but may limit the number of providers approved for licensure to provide psychosocial rehabilitation and/or community support and treatment services in the future.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1711#060

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Home and Community-Based Behavioral Health
Services Waiver (LAC 50:XXXIII.8103, 8501 and 8701)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.8103, §8501 and §8701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing children's behavioral health services provided through the Home and Community-Based Behavioral Health Services Waiver in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; and 2) remove the requirement for OBH certification of providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

**Subpart 9. Home and Community-Based Services
Waiver**

Chapter 81. General Provisions

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. are from the age of 5 years old through the age of 20 years old effective March 1, 2017:

a. ...

b. prospectively enrolled recipients must be at least age 5 through age 20 to receive waiver services;

A.2. - 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, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017), LR 44:

Chapter 85. Provider Participation

§8501. Provider Responsibilities

A. - C. ...

D. Anyone providing behavioral health services must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. Providers requiring certification in accordance with federal or state laws, regulations, rules, the provider manual, or other notices or directives issued by the department must be appropriately certified. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. - E.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, Bureau of Health Services Financing, LR 38:368 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2362 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 87. Reimbursement

§8701. Reimbursement Methodology

A. The department or its fiscal intermediary shall make monthly capitation payments to the CSoc contractor.

1. The capitation rates paid to the CSoc contractor shall be actuarially sound rates.

2. The CSoc contractor will make payments to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

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 38:368 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

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.

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 no impact on family

functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Behavioral Health Services Waiver

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$324 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing children's behavioral health services provided through the Home and Community-Based Behavioral Health Services Waiver in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; and 2) remove the requirement for Office of Behavioral Health certification of providers. It is anticipated that implementation of this proposed rule will have no fiscal impact to the home and community-based behavioral health services providers for FY 17-18, FY 18-19 and FY 19-20. The current payments made to the CSoC contractor are the basis of the capitated rate development for the full-risk contract. Shifting the payment mechanism is not anticipated to have more than a nominal impact on the overall cost of the waiver program, given its maturity, since the program itself will remain substantially the same.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#061

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Laboratory and Radiology Services
Termination of Coverage for Proton Beam
Radiation Therapy (LAC 50:XIX.4334)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4334 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing currently provides Medicaid coverage and reimbursement for proton beam radiation therapy services under the laboratory and radiology benefit. Proton beam radiation is a type of external radiation therapy utilized in the treatment of malignant and benign tumors and arteriovenous malformations. National best practice standards indicate that the therapy is most appropriate for treatment of tumors in individuals who are under the age of 21.

As the Medicaid Program continues to look for cost containment measures to ensure fiscal responsibility, we also strive to ensure Medicaid recipients receive the most appropriate, quality services. Therefore, it is imperative that our coverage policies align with best practice standards which is a fiscally sound approach to health care service delivery.

Hence, the department proposes to amend the provisions governing laboratory and radiology services to terminate coverage and reimbursement of proton beam radiation therapy for recipients 21 years of age and older. The services will continue to be available for recipients under the age of 21 when deemed medically necessary.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIX. Other Healthcare Services
Subpart 3. Laboratory and Radiology Services
Chapter 43. Billing and Reimbursement
Subchapter B. Reimbursement
§4334. Radiology Services

A. - K.3. ...

L. Effective for dates of service on or after February 20, 2018, or upon promulgation of this Rule, the Medicaid Program terminates coverage and reimbursement for proton beam radiation therapy (PBRT) for recipients 21 years of age and older.

1. For recipients under the age of 21, coverage and reimbursement shall be provided when PBRT services are deemed medically necessary.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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.

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may have a minimal increase in direct or indirect cost to the provider to provide the same level of service due to the termination of Medicaid payments for these services for recipients 21 and over. The proposed Rule may also have a minimal adverse impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Laboratory and Radiology Services
Termination of Coverage for Proton Beam
Radiation Therapy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic savings of approximately \$4,019 for FY 17-18, \$11,678 for FY 18-19 and \$11,678 FY 19-20. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$7,140 for FY 17-18, \$20,969 for FY 18-19 and \$20,969 for FY 19-20. It is anticipated that \$270 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing laboratory and radiology services to terminate coverage and reimbursement of proton beam radiation therapy (PBRT) for recipients 21 years of age and older. Medicaid recipients age 21 and over may be impacted by this proposed Rule as alternative treatment options may be required due to termination of coverage for this service. It is anticipated that implementation of this proposed rule may have an economic impact on PRBT providers and will decrease Medicaid programmatic expenditures for laboratory and radiology services by

approximately \$11,699 for FY 17-18, \$32,647 for FY 18-19 and \$32,647 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition.

Jen Steele
Medicaid Director
1711#062

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Independent Review Process for Provider Claims
(LAC 50:I.3111)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.3111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 349 of the 2017 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to establish a process for review of health care provider claims submitted to Medicaid managed care organizations when claim payment determinations are adverse to providers. This legislation further directed the department to: 1) establish a panel for the selection of the independent reviewers; 2) provide for reporting requirements; 3) establish penalties; and 4) related matters.

In compliance with the provisions of Act 349, the department proposes to amend the provisions governing managed care for physical and behavioral health in order to adopt provisions for the independent process for the review of MCO provider claims payment determinations that are adverse to health care providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3111. Independent Review Process for Provider Claims

A. Right of Providers to Independent Review

1. Pursuant to Act 349 of the 2017 Regular Session of the Louisiana Legislature, for adverse determinations related to claims filed on or after January 1, 2018, a healthcare provider shall have a right to an independent review of the adverse action of the managed care organization (MCO).

2. For purposes of these provisions, adverse determinations shall refer to claims submitted by healthcare providers for payment for services rendered to Medicaid enrollees and denied by a MCO, in whole or in part, or a claim that results in recoupment of a payment from the healthcare provider.

B. Request for Reconsideration

1. A provider shall submit a written request for reconsideration to the MCO. The request shall identify the claim(s) in dispute, the reasons for the dispute, and any documentation supporting the provider's position or request by the MCO, within 180 days from one of the following dates:

a. the date on which the MCO transmits remittance advice or other notice electronically;

b. 60 days from the date the claim was submitted to the MCO if the provider receives no notice from an MCO, either partially or totally, denying the claim; or

c. the date on which the MCO recoups monies remitted for a previous claim payment.

2. The MCO shall acknowledge in writing its receipt of a reconsideration request submitted in accordance with §3111.B.1, within 5 calendar days after receipt of the request, and render a final decision by providing a response to the provider within 45 calendar days from the date of receipt of the request for reconsideration, unless another time frame is agreed upon in writing by the provider and the MCO.

C. Independent Review Requirements

1. If the MCO upholds the adverse determination, or does not respond to the reconsideration request within the time frames allowed, the provider may file a written notice with the department requesting the adverse determination be submitted to an independent reviewer. The department must receive the written request from the provider for an independent review within 60 days from the date the provider receives the MCO's notice of the decision of the reconsideration request, or if the MCO does not respond to the reconsideration request within the time frames allowed, the last date of the time period allowed for the MCO to respond.

2. The provider shall include a copy of the written request for reconsideration with the request for an independent review. The address to be used by the provider for submission of the request shall be P.O. Box 91283, Bin 32, Baton Rouge, LA 70821-9283.

3. If the MCO reverses the adverse determination pursuant to a request for reconsideration, payment of the claim(s) in dispute shall be made no later than 20 days from the date of the MCO's decision.

4. Subject to approval by the department, a provider may aggregate multiple adverse determinations involving the same MCO when the specific reason for nonpayment of the claims aggregated involve a dispute regarding a common substantive question of fact or law.

5. Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request to be provided all information and documentation submitted for reconsideration regarding the disputed claim or claims within 30 calendar days.

6. If the independent reviewer determines that guidance on a medical issue from the department is required to make a decision, the reviewer shall refer this specific issue to the department for review and concise response to the request within 90 calendar days after receipt.

7. The independent reviewer shall examine all materials submitted and render a decision on the dispute

within 60 calendar days. The independent reviewer may request in writing an extension of time from the department to resolve the dispute. If an extension of time is granted by the department, the independent reviewer shall provide notice of the extension to the provider and the MCO.

8. If the independent reviewer renders a decision requiring a MCO to pay any claims or portion of the claims, within 20 calendar days, the MCO shall send the provider payment in full along with 12 percent interest calculated back to the date the claim was originally denied or recouped.

9. Within 60 calendar days of an independent reviewer's decision, either party to the dispute may file suit in any court having jurisdiction to review the independent reviewer's decision to recover any funds awarded by the independent reviewer to the other party.

D. Independent Review Costs

1. The fee for conducting an independent review shall be paid to the independent reviewer by the MCO within 30 calendar days of receipt of a bill for services. A provider shall, within 10 days of the date of the decision of the independent reviewer, reimburse a MCO for the fee associated with conducting an independent review when the decision of the MCO is upheld. If the provider fails to submit payment for the independent review within 10 days from the date of the decision, the MCO may withhold future payments to the provider in an amount equal to the cost of the independent review, and the department may prohibit that provider from future participation in the independent review process.

2. If the MCO fails to pay the bill for the independent reviewer's services, the reviewer may request payment directly from the department from any funds held by the state that are payable to the MCO.

E. Independent Reviewer Selection Panel

1. The independent reviewer selection panel shall select and identify an appropriate number of independent reviewers and determine a uniform rate of compensation to be paid to each reviewer, not to exceed \$2,000 per review.

2. The panel shall consist of the secretary or his/her duly designated representative, two provider representatives and two MCO representatives.

3. Each MCO shall utilize only independent reviewers who are selected in accordance with Act 349 of the 2017 Regular Session of the Louisiana Legislature, and shall comply with the provisions of this Section in the resolution of disputed adverse determinations.

F. Penalties

1. An MCO in violation of any provision governing the independent review process herein may be subject to a penalty of up to \$25,000 per violation.

2. An MCO may be subject to an additional penalty of up to \$25,000 if subject to more than 100 independent reviews annually and the percentage of adverse determinations overturned in favor of the provider as a result of an independent review is greater than 25 percent.

G. Independent Review Applicability

1. Independent review shall not apply to any adverse determination:

a. associated with a claim filed with an MCO prior to January 1, 2018, regardless of whether the claim is refiled after that date;

b. associated with an adverse determination involved in litigation or arbitration;

c. not associated with a Medicaid enrollee.

2. Independent review does not otherwise prohibit or limit any alternative legal or contractual remedy available to a provider to contest the partial or total denial of a claim for payment for healthcare services. Any contractual provision executed between a provider and a MCO which seeks to limit or otherwise impede the appeal process as set forth in this Section shall be null, void, and deemed to be contrary to the public policy of this state.

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, Bureau of Health Services Financing, LR 44:

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.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118,

Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Managed Care for Physical and Behavioral Health—Independent Review Process for Provider Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have administrative costs to the state of approximately \$22,853 in FY 17-18, \$62,421 in FY 18-19 and \$62,421 in FY 19-20; however, the programmatic impact to the state is indeterminable since there is no way to determine how many providers will utilize the process or how many claims payments will be impacted and result in a programmatic cost or savings to the state through adjustments to the PMPM. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections for administrative costs by approximately \$22,854 in FY 17-18, \$62,421 in FY 18-19 and \$62,421 in FY 19-20; however, the federal revenue collections for the programmatic impact is indeterminable. It is anticipated that \$486 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pursuant to the provisions of Act 349 of the 2017 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing managed care for physical and behavioral health in order to adopt provisions for an independent review process for healthcare providers who have received an adverse determination on managed care organization (MCO) claims payments. It is anticipated that implementation of this proposed rule will have administrative cost to the Medicaid Program of approximately \$44,735 in FY 17-18, \$124,842 in FY 18-19 and \$124,842 in FY 19-20; however, the Medical Vendor Payments impact is indeterminable since there is no way to determine how many providers will utilize this process or how many claims payments may be impacted. It is also anticipated that implementation of this proposed rule may have an impact to the MCOs and healthcare providers in FY 17-18, FY 18-19 and FY 19-20, but the impact is indeterminable since there is no way to determine if there will be recoupments or payments made by MCOs and providers as a result of this process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#063

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Managed Care for Physical and Behavioral Health
Member Grievances and Appeals
(LAC 50:I.Chapter 37)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.Chapter 37 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing managed care for physical and behavioral health in order to align the current Rule with the *Code of Federal Regulations* and the *Louisiana Administrative Code* which will: 1) revise timeframes for members to initiate state fair hearings and request appeals; 2) revise the timeframe for managed care organizations to resolve grievances; 3) update definitions to align with federal Rule changes; 4) revise record retention requirements; and 5) clarify reporting requirements.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 37. Grievance and Appeal Process

Subchapter A. Member Grievances and Appeals

§3703. Definitions

Action—Repealed.

1. - 5. Repealed.

Adverse Benefit Determination—any of the following:

1. the denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

2. the reduction, suspension, or termination of a previously authorized service;

3. the denial, in whole or in part, of payment for a service;

4. the failure to provide services in a timely manner, as defined by the state;

5. the failure of an MCO to act within the timeframes provided in 42 CFR §438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals;

6. the denial of a member's request to dispute a financial liability, including cost sharing, copayments, premiums, deductible, coinsurance, and other member financial liabilities.

Appeal—a request for review of an adverse benefit determination as defined in this Section.

Grievance—an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to:

1. ...

2. aspects of interpersonal relationships, such as rudeness of a provider or employee;

3. failure to respect the member's rights regardless of whether remedial action is requested; or

4. the member's rights to dispute an extension of time proposed by the MCO to make an authorization decision.

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 37:1589 (June 2011), amended LR 41:939 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§3705. General Provisions

A. The MCO must have a system in place for members that includes a grievance process, an appeal process, and access to the state fair hearing process once the MCO's appeal process has been exhausted.

B. Filing Requirements

1. Authority to File. A member, or a representative of his/her choice, including a provider acting on behalf of the member and with the member's written consent, may file a grievance and an MCO level appeal. Once the MCO's appeals process has been exhausted, a member or his/her representative, with the member's written consent, may request a state fair hearing.

a. ...

2. Filing Timeframes. The member, or a representative or provider acting on the member's behalf and with his/her written consent, may file an appeal within 60 calendar days from the date on the MCO's notice of adverse benefit determination.

3. Filing Procedures

a. ...

b. The member, or a representative or provider acting on the member's behalf and with the member's written consent, may file an appeal either orally or in writing. Oral appeals must be followed by a signed, written appeal unless the member requested an expedited appeal.

C. - C.1.b. ...

D. Grievance and Appeal Records

1. The MCO must maintain records of grievances and appeals. A copy of the grievance logs and records of the disposition of appeals shall be retained for 10 years. If any litigation, claim negotiation, audit, or other action involving the documents or records has been started before the expiration of the 10-year period, the records shall be retained until completion of the action and resolution of issues which arise from it or until the end of the regular 10-year period, whichever is later.

E. All state fair hearing requests shall be sent directly to the state designated entity.

1. - 1.f. Repealed.

F. The MCO will be responsible for promptly forwarding any adverse decisions to the department for further review and/or action upon request by the department or the MCO member.

G. The department may submit recommendations to the MCO regarding the merits or suggested resolution of any grievance or appeal.

H. Information to Providers and Subcontractors. The MCO must provide the information about the grievance

system as specified in federal regulations to all providers and subcontractors at the time they enter into a contract.

I. Recordkeeping and Reporting Requirements. Reports of grievances and resolutions shall be submitted to the department as specified in the contract. The MCO shall not modify the grievance system without the prior written approval of the department.

J. 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, Bureau of Health Services Financing, LR 37:1590 (June 2011), amended LR 41:939 (May 2015), LR 41:2368 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§3707. Handling of Member Grievances and Appeals

A. In handling grievances and appeals, the MCO must meet the following requirements:

1. - 2. ...

3. ensure that the individuals who make decisions on grievances and appeals are individuals who:

a. were not involved in any previous level of review or decision-making, nor a subordinate of any such individual; and

b. if deciding on any of the following issues, are individuals who have the appropriate clinical expertise, as determined by the department, in treating the member's condition or disease:

A.3.b.i. - B. ...

1. The process for appeals must:

a. provide that oral inquiries seeking to appeal an action are treated as appeals (to establish the earliest possible filing date for the appeal) and must be confirmed in writing, unless the member or the provider requests expedited resolution;

b. ...

c. provide the member and his/her representative an opportunity, before and during the appeals process, to examine the member's case file, including medical records, any other documents and records, and any new or additional evidence considered, relied upon, or generated by the MCO during the appeals process. This information must be provided free of charge and sufficiently in advance of the resolution timeframe for appeals; and

1.d. - 3. ...

4. Failure to Make a Timely Decision

a. ...

b. If a determination is not made by the contractual time frames, the member's request will be deemed to have been exhausted and the member may initiate a state fair hearing.

5. ...

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 37:1590 (June 2011), amended LR 41:940 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§3709. Notice of Adverse Benefit Determination

A. ...

B. Content of Notice. The notice must explain the following:

1. the adverse benefit determination the MCO or its subcontractor has taken or intends to take;

2. the reasons for the adverse benefit determination, including the right of the member to be provided upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the member's adverse benefit determination;

3. ...

4. the member's right to request a state fair hearing after the MCO's one-level appeal process has been exhausted;

B.5. - D.3. ...

E. For service authorization decisions not reached within the timeframes specified in this Section, this constitutes a denial and is thus an adverse action on the date that the timeframes expire.

1. For expedited service authorization decisions where a provider indicates, or the MCO determines, that following the standard timeframe could seriously jeopardize the member's life, health, or ability to attain, maintain, or regain maximum function, the MCO must make an expedited authorization decision and provide notice as expeditiously as the member's health condition requires, but no later than 72 hours after receipt of the request for service.

2. The MCO may extend the 72-hour time period by up to 14 calendar days if the member or provider acting on behalf of the member requests an extension, or if the MCO justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest.

F. The department shall conduct random reviews to ensure that members are receiving such notices in a timely manner.

F.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, Bureau of Health Services Financing, LR 37:1591 (June 2011), amended LR 41:940 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§3711. Resolution and Notification

A. The MCO must resolve each grievance and appeal, and provide notice as expeditiously as the member's health condition requires, within the timeframes established in this Section. The MCO must provide written notice to all members who filed a grievance whether the grievance was filed with the MCO or the department.

B. Specific Timeframes

1. For standard disposition of a grievance and notice to the affected parties, the timeframe is established as 30 days, or the timeframe established by the department, not to exceed 90 days, from the day the MCO receives the grievance.

B.2. - D. ...

E. Format of Notice

1. The MCO shall follow the method specified by the department to notify a member of the disposition of a grievance.

2. For all appeals, the MCO must provide written notice of the resolution.

3. For notice of an expedited resolution, the MCO must provide written notice of the resolution and also make reasonable efforts to provide oral notice.

F. - F.2.c. ...

G. Requirements for State Fair Hearings

1. ...

2. If the member has exhausted the MCO's one-level appeal procedures, the member may initiate a state fair hearing within 120 days from the date of the MCO's notice of appeal resolution.

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 41:941 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§3713. Expedited Resolution of Appeals

A. ...

B. If the MCO denies a request for expedited resolution of an appeal, it must:

1. transfer the appeal to the timeframe for standard resolution; and

2. make reasonable efforts to give the member prompt oral notice of the denial, and follow up within two calendar days with a written notice of the reason for the decision to extend the timeframe and inform the member of the right to file a grievance if he/she disagrees with the decision.

C. - E.2. 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, Bureau of Health Services Financing, LR 41:941 (May 2015), amended by the Department of Health, Bureau of Health Services Financing LR 44:

§3715. Continuation of Services during the Pending MCO Appeal or State Fair Hearing [Formerly LAC 50:I.3711]

A. *Timely Filing*—filing on or before the later of the following:

1. within 10 calendar days of the MCO's mailing of the notice of adverse benefit determination; or

2. the intended effective date of the MCO's proposed adverse benefit determination.

B. Continuation of Benefits. The MCO must continue the member's benefits if the:

1. - 4. ...

5. member timely files for continuation of benefits.

C. ...

1. If, at the member's request, the MCO continues or reinstates the member's benefits while the appeal is pending, the benefits must be continued until one of following occurs:

a. the member withdraws the appeal or request for state fair hearing;

b. 10 calendar days pass after the MCO mails the notice providing the resolution of the appeal against the member, unless the member has requested a state fair hearing with continuation of benefits, within the 10-day timeframe, until a state fair hearing decision is reached; or

c. a state fair hearing entity issues a hearing decision adverse to the member.

d. Repealed.

D. ...

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 37:1591 (June 2011), amended LR 41:942 (May 2015), amended by the Department of Health, Bureau of Health Services Financing LR 44:

§3717. Effectuation of Reversed Appeal Resolutions [Formerly LAC 50:I.3713]

A. ...

1. If the MCO or the state fair hearing entity reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the MCO must authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires, but no later than 72 hours from the date it receives notice reversing the decision.

B. - C. ...

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 37:1592 (June 2011), amended LR 41:942 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to

MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Managed Care for Physical and Behavioral Health—Member Grievances and Appeals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,728 (\$864 SGF and \$864 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$864 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to clarify and ensure that the proposed revisions align with the Code of Federal Regulations and the Louisiana Administrative Code which will: 1) revise timeframes for members to initiate state fair hearings and request appeals; 2) revise the timeframe for managed care organizations to resolve grievances; 3) update definitions to align with federal Rule changes; 4) revise record retention requirements; and 5) clarify reporting requirements. It is anticipated that these changes will benefit the member by allowing them additional time to file for appeal and state fair hearing. There may be an indeterminable cost increase to the managed care organizations due to increased records retention requirements. All other changes are technical in nature are not anticipated to have costs or benefits to managed care providers or members in FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1711#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Psychiatric Residential Treatment Facilities
Licensing Standards (LAC 48:I.Chapter 90)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for psychiatric residential treatment facilities in order to: 1) revise the definition and qualifications for mental health specialists; 2) establish provisions for inactivation of licensure due to non-declared disasters or emergencies; 3) clarify requirements for social media use and reporting; and 4) ensure consistency with other licensing rules, regulations and processes.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

**Chapter 90. Psychiatric Residential Treatment
Facilities (under 21)**

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents who are under 21 years of age in psychiatric residential treatment facilities (PRTFs) participating in the Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote the health, safety and welfare of residents of PRTFs participating in the Medicaid Program.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 44:

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

Department (LDH)—the Louisiana Department of Health.

Documentation—written evidence or proof, including signatures of appropriate staff and date, shall be maintained on site and available for review.

DSS—Repealed.

HSS—the Department of Health, Health Standards Section.

Mental Health-Related Field—academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. Programs which qualify include, but are not limited to sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling. For any other program to qualify as a related field, there shall be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*.

Mental Health Specialist (MHS)—a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one of the following criteria, as documented by the provider:

- a. has completed at least two years of education from an accredited college or university; or
- b. has a high school diploma or equivalent and has completed two years of documented experience providing direct care services in a mental health, physical health, social services, educational or correctional setting.
- c. - d. Repealed.

Non-Operational—the HCBS provider location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

OBH—the Department of Health, Office of Behavioral Health.

OCS—Repealed.

OPH—the Department of Health, Office of Public Health.

OYD—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 42:277 (February 2016), LR 44:

Subchapter B. Licensing

§9007. General Provisions

A. - G. ...

H. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health as part of the licensing procedure and prior to obtaining a license.

1. - 1.a. ...

i. One set of the final construction documents shall be submitted to the OSFM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the LDH.

ii. One set of the final construction documents shall be submitted to the OSFM for the LDH plan review along with the appropriate review fee and a “plan review application form” for approval.

b. - c.i. ...

ii. the latest LSUCCC adopted edition of the *International Building Code*; and

iii. the current licensing standards for psychiatric residential treatment facilities.

iv. Repealed.

d. Construction Document Preparation.

Construction documents submitted to LDH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed. These documents shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

i. - vi. ...

2. Waivers. The secretary of LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of, or otherwise required under, the provisions of the state sanitary code. The facility shall submit a waiver request in writing to HSS. The facility shall demonstrate how patient safety and quality of care offered is not compromised by the waiver, and must demonstrate the undue hardship imposed on the facility if the waiver is not granted. The facility shall demonstrate their ability to completely fulfill all other requirements of service. The department will make a written determination of the requests.

a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:372 (February 2012), amended LR 44:

§9009. Initial Licensing Application Process

A. ...

B. Licensed DCFS child residential facilities that are converting to PRTFs shall comply with all of the initial licensure requirements, except plan review, and may be eligible for the exception to the bedroom space requirement of this Chapter.

C. An applicant shall submit a completed initial licensing application packet to the department, which shall include:

1. ...

2. a copy of the approval letters of the architectural and LDH licensing facility plans for the PRTF from the OSFM, and any other office/entity designated by the department to review and approve the facility’s architectural plans, if the facility shall go through plan review;

3. - 9. ...

D. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a PRTF shall

submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

E. Once the initial licensing application packet has been approved by the department, notification of the approval shall be forwarded to the applicant. Within 90 days of receipt of the approval notification, the applicant shall notify the department that the PRTF is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application has been closed, an applicant who is still interested in becoming a PRTF shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

F. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the PRTF will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:373 (February 2012), amended LR 39:2510 (September 2013), LR 44:

§9011. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. - 2.a. ...

b. The facility shall submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

2.c. - 4.c.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:373 (February 2012), amended LR 44:

§9013. Deemed Status

A. A licensed PRTF may request deemed status from the department. The department may accept accreditation in lieu of a routine on-site licensing survey provided that:

1. ...

2. all services provided under the PRTF license shall be accredited; and

A.3. - D. ...

1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:374 (February 2012), amended LR 44:

§9017. Changes in Licensee Information or Personnel

A. ...

B. Any change regarding the PRTF’s name, “doing business as” name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the PRTF name or “doing business as” name requires a change to the facility license and the required fee for the issuance of an amended license.

C. - D.3. ...

E. Any request for a duplicate license shall be accompanied by the required fee.

F. ...

1. Written notice of intent to relocate shall be submitted to HSS when the plan review request is submitted to the department for approval.

2. Relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:278 (February 2016), LR 44:

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF becomes non-operational.

B. - D. ...

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. - 1.b. ...

c. the parent(s) or legal guardian or legal representative of each resident; and

2. provide for an orderly discharge and transition of all of the residents in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of residents' medical records for approval by the department. The plan shall include the following:

1. ...

2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's residents' medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the resident or authorized representative, upon presentation of proper authorization(s); and

F.3.b. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:278 (February 2016), LR 44:

§9021. Renewal of License

A. To renew a license, a PRTF shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 44:

§9025. Notice and Appeal of License Denial, License Revocation, and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The PRTF has a right to an informal reconsideration of the license denial, license revocation, or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. - 7. ...

C. The PRTF has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The PRTF shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal.

a. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DAL or its successor. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the DAL issues a final administrative decision.

a. ...

4. Correction of a violation or a deficiency which is the basis for the license denial or revocation shall not be a basis for the administrative appeal.

D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. If the final DAL decision is to reverse the license denial, the denial of license renewal, or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing fees or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final DAL decision is to affirm the denial of license renewal or the license revocation, the facility shall discharge any and all residents receiving services according to the provisions of this Chapter. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where the residents' records will be stored.

F. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt

of the notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

H. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 42:278 (February 2016), LR 44:

§9027. Complaint Surveys

A. - E. ...

F. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any provider staff, resident, or participant, as necessary or required to conduct the survey.

G. A PRTF which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department shall receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation that resulted from his/her complaint. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department shall receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. - J. ...

1. - 2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 42:279 (February 2016), LR 44:

§9029. Statement of Deficiencies

A. - C.3. ...

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, license revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 42:279 (February 2016), LR 44:

Subchapter C. Organization and Administration

§9033. Governing Body

[Formerly §9029]

A. The PRTF shall have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012), LR 44:

§9035. Administrative Policies and Records

[Formerly §9031]

A. Every PRTF shall have policies that are clearly written and current. All policies shall be available for review by all staff and LDH personnel. All policies shall be available for review upon request by a resident or a resident's parent or legal guardian.

B. ...

C. The PRTF shall have policies governing:

1. - 6. ...

7. mandatory reporting of abuse or neglect;

8. - 11. ...

12. the photographing and audio or audio-visual recording of residents and clarification of the agency's prohibited use of social media to ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media;

13. all hazards risk assessment and emergency/disaster procedures, including the provision that when the PRTF has an interruption in services or a change in the licensed location due to an emergency situation, the PRTF shall notify the HSS no later than the next stated business day;

C.14. - D.1.i. ...

2. Notification of Facility Policy Regarding the Use of Restraint and Seclusion. At admission, the facility shall:

a. ...

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility shall provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff shall file this acknowledgment in the resident's record; and

d. ...

i. The facility's policy shall provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

E. - E.1.e. ...

2. The facility policy shall prohibit:

a. shaking, striking, spanking or any cruel treatment;

b. - k. ...

3. The PRTF shall satisfy all of the requirements contained in federal and state laws and regulations regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse or Neglect

1. The provider shall have comprehensive written procedures concerning resident abuse or neglect including:

1.a. - 2. ...

3. Staff shall report any case of suspected resident abuse or neglect to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report shall include:

a. - e. ...

4. In the case of a minor, the facility shall notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff shall document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report shall be maintained in the resident's record.

G. The facility shall report each serious occurrence to both HSS and, unless prohibited by state law, the DCFS, Child Welfare Division. Serious occurrences that shall be reported include a resident's death, or a serious injury to a resident or a suicide attempt by a resident.

1. Staff shall report any serious occurrence involving a resident to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a serious occurrence. The report shall include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility shall conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility shall notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff shall document in the resident's record that the serious occurrence was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report shall be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

H. - L. ...

1. The PRTF shall ensure the confidentiality and security of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF shall ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or

subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

L.1.a. - M.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:60 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012), LR 44:

Subchapter D. Human Resources

§9041. Personnel

[Formerly §9043]

A. - A.3.b. ...

B. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to residents, and for the ethical conduct and professional practices of its members, as well as for accounting to the governing body. The manner in which the professional staff is organized shall be consistent with the facility's documented staff organization and policies and shall pertain to the setting where the facility is located. The organization of the professional staff and its policies shall be approved by the facility's governing body.

C. The staff of a PRTF shall have the appropriate qualifications to provide the services required by its residents' comprehensive plans of care. Each member of the direct care staff may not practice beyond the scope of his/her license, certification or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:383 (February 2012), LR 44:

§9043. Personnel Qualifications and Responsibilities

A. Staffing Definitions. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person shall be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012), amended LR 44:

§9045. Personnel Orientation and Training

A. - A.1. ...

2. Orientation includes, but is not limited to:

a. - b. ...

c. fire and disaster plans including evacuations;

d. - f. ...

g. personnel policy and procedure, including the prohibited use of social media. Such training shall, at a minimum, include confidentiality of resident information, preservation of resident dignity and respect, protection of resident privacy and personal and property rights;

h. detecting and mandatory reporting of resident abuse, neglect or misappropriation of resident's funds;

2.i. - 3. ...

4. Staff training shall include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

5. Staff shall be trained and demonstrate competency before participating in an emergency safety intervention.

6. All training programs and materials used by the facility shall be available for review by HSS.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012), LR 44:

§9047. Personnel Requirements

A. - C. ...

D. Staffing ratios listed above are a minimum standard. The PRTF shall have written policies and procedures that:

1. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:329 (February 2017), LR 44:

Subchapter E. Facility Operations

§9063. Admission, Transfer and Discharge Requirements

A. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the resident and his/her legal representative.

B. - D. ...

E. To be admitted into a PRTF, the individual shall have received certification of need from the department or the department's designee that recommends admission into the PRTF. The PRTF shall ensure that requirements for certification are met prior to treatment commencing. The certification shall specify that:

E.1. - G. ...

H. Voluntary Transfer or Discharge. Upon notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services, the PRTF shall have the responsibility of planning for the resident's voluntary transfer or discharge. The transfer or discharge responsibilities of the PRTF shall include:

1. holding a transfer or discharge planning conference with the resident, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the resident declines such a meeting;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012), LR 44:

§9065. Health Care and Nursing Services [Formerly §9081]

A. - C.16. ...

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, LDH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

18. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012), LR 44:

§9067. Delivery of Services [Formerly §9083]

A. - B.6. ...

C. The services provided by the PRTF shall involve active treatment.

1. The team of professionals who shall develop the comprehensive plan of care shall be composed of physician(s) and other personnel who are employed by, or who provide services to the recipient in the facility. The team shall be capable of assessing the resident's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the resident's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team shall include, at a minimum, either:

a. - c. ...

2. The team shall also include one of the following:

a. - d. ...

4. The comprehensive plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan shall:

a. - c. ...

5. The plan shall be reviewed as needed, but at a minimum of every 30 days by the facility treatment team to determine that services being provided are, or were, required on an inpatient basis and recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

D. - F. ...

1. The program shall be appropriate to the needs and interests of residents and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

D.2. - H.7. ...

I. Each resident shall have a minimum of one face-to-face contact with a psychiatrist each month and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

J. - J.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:70 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:388 (February 2012), LR 44:

Subchapter F. Physical Environment

§9077. Interior Space

[Formerly §9063]

A. - E. ...

1. Single rooms shall contain at least 80 square feet and multi-bed rooms shall contain at least 60 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment.

2. - 12. ...

13. Each resident shall have his/her own bed. A resident's bed shall be longer than the resident is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.

E.14. - N. ...

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all residents.

2. ...

3. All gas heating units and water heaters shall be vented adequately to carry the products of combustion to the outside atmosphere. Vents shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

O. - Q.2....

3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent resident hiding, escape, injury or suicide.

R. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012), LR 39:2510 (September 2013), LR 44:

Subchapter G. Emergency Preparedness

§9083. Safety and Emergency Preparedness

A. The PRTF shall incorporate an all hazards risk assessment into the facility's emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. - B.1. ...

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and upon request of either of these offices and verification of this submittal maintained in the plan. Any recommendations by the parish or local

OHSEP regarding the facility's plan shall be documented and addressed by the PRTF.

B.3. - N. ...

O. The facility's plan shall include how the PRTF will notify OHSEP and LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

P. - P.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:394 (February 2012), amended LR 44:

§9085. Emergency Plan Activation, Review, and Summary

A. ...

B. PRTFs shall conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters.

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:395 (February 2012), amended LR 44:

§9087. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. - B. ...

C. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the PRTF shall immediately give notice to the Health Standards Section, the Office of Behavioral Health (OBH), and OHSEP by facsimile or email of the following:

1. - 2. ...

D. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the PRTF shall immediately give notice to the Health Standards Section by facsimile or email of the following:

1. - 2. ...

E. If there are any deviations or changes made to the locations of the residents that were given to the Health Standards Section, OBH and OHSEP, then Health Standards, OBH, and OHSEP shall be notified of the changes within 48 hours of their occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:396 (February 2012), amended LR 44:

§9089. Authority to Re-Open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. - F.7. ...

G. Inactivation of Licensure due to a Non-Declared Disaster or Emergency

1. A PRTF in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the PRTF shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

i. the PRTF has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

ii. the PRTF intends to resume operation as a PRTF agency in the same service area;

iii. the PRTF attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. the PRTF's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

b. the PRTF continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

c. the PRTF continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to temporarily inactivate a PRTF license, the department shall issue a notice of inactivation of license to the PRTF.

3. Upon receipt of the department's approval of request to inactivate the agency's license, the PRTF shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to OSFM and OPH as required.

4. The PRTF shall resume operating as a PRTF in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the PRTF requires an extension of this timeframe due to circumstances beyond the agency's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the agency's active efforts to complete construction or repairs and the reasons for request for extension of the agency's inactive license. Any approval for extension is at the sole discretion of the department.

5. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PRTF which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the PRTF shall submit a written license reinstatement request to the licensing agency of the department;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

6. Upon receiving a completed written request to reinstate a PRTF license, the department may conduct a

licensing or physical environment survey. The department may issue a notice of reinstatement if the agency has met the requirements for licensure including the requirements of this Subsection.

7. No change of ownership of the PRTF shall occur until such PRTF has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PRTF facility.

8. The provisions of this Subsection shall not apply to a PRTF which has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PRTF license for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:396 (February 2012), amended LR 44:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. A mental health PRTF shall have the following minimum personnel.

1. Administrator. The administrator shall have a Bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

1.a. - 2. ...

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. ...

ii. if the license(s) is from another jurisdiction, the license(s) shall be documented in the employment record and shall also be unrestricted;

iii. ...

iv. satisfactory completion of a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director, which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If the training was completed in a psychiatric residency program not accredited by the ACGME, the physician shall demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's board policies, rules and regulations regarding information for applicants for initial certification in psychiatry.

2.b. - 7. ...

B. If the PRTF is providing both mental health and substance abuse treatment, the PRTF shall also meet the staffing requirements for the resident's ASAM level required by the department, or the department's designee, in addition to the mental health PRTF requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 42:279 (February 2016), LR 44:

Subchapter I. Additional Requirements for Addictive Disorder PRTFs

§9097. Personnel Qualifications, Responsibilities, and Requirements for Addictive Disorder PRTFs

A. An addictive disorder PRTF shall have the following minimum personnel.

1. Administrator. The administrator shall have a bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current substance abuse license from LDH at the time of the promulgation of this final Rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

1.a.i. - 2. ...

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. ...

ii. if the license(s) is from another jurisdiction, the license(s) shall be documented in the employment record and shall also be unrestricted; and

iii. - iii.(b). ...

(c). an ABMS board-certified physician (non-psychiatrist) with ASAM certification and consultation with an ABPN board-certified psychiatrist. Proof of consultation shall be a current contract with a board-certified psychiatrist and written documentation of consults in the resident's medical record.

2.b. - 5.b. ...

6. Physician. The PRTF, except one that provides a social detoxification program only, shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents; the PRTF may have available, in place of the physician, a licensed advanced nurse practitioner who has a collaborative agreement with a physician or a physician's assistant who has a supervising physician and works under the licensed physician.

A.7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:399 (February 2012), amended LR 39:2511 (September 2013), LR 44:

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 or autonomy as described in R.S. 49:972 by providing information and clarity of regulations for psychiatric residential treatment facilities.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Psychiatric Residential Treatment Facilities—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$5,076 (SGF) will be expended in FY 17-18 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the licensing standards for psychiatric residential treatment facilities (PRTFs) in order to: 1) revise the definition and qualifications for mental health specialists; 2) establish provisions for inactivation of licensure due to non-declared

disasters or emergencies; 3) clarify requirements for social media use and reporting; and 4) ensure consistency with other licensing Rules, regulations and processes. This proposed Rule does not expand the number of facilities nor the utilization of services, but will benefit PRTF providers since it will broaden the pool of potential direct care workers within the facilities. It is anticipated that the implementation of this proposed Rule will have no economic costs or benefits to PRTF providers in FY 17-18, FY 18-19 and FY 19-20, since it does not affect how PRTFs bill and are reimbursed for services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Section Director
1711#065

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Therapeutic Group Homes
(LAC 50:XXXIII.Chapters 121-127)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 121-127 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing therapeutic group homes (TGH) in order to: 1) reflect the CSoC contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirement for OBH certification of providers; and 3) reflect that TGH are carved out of management by the CSoC contractor to align with current practice and contract requirements.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 13. Therapeutic Group Homes

Chapter 121. General Provisions

§12101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). These services shall be administered under the authority of the Department of Health (LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor for children and youth enrolled in the CSoC program, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - C. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 123. Services

§12303. Covered Services

A. - A.4. ...

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 3. ...

4. services rendered in an institution for mental disease;

5. - 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, Bureau of Health Services Financing, LR 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. Each provider of TGH services shall enter into a contract with one or more of the MCOs in order to receive reimbursement for Medicaid covered services. Providers shall meet the provisions of this Rule, the provider manual, and the appropriate statutes.

B. - C. ...

D. Anyone providing TGH services shall be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license.

E. TGH facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to their contracted MCOs in writing within the time limit established by the department.

F. - G.2. ...

H. For TGH facilities that provide care for sexually deviant behaviors, substance use, or dually diagnosed individuals, the facility shall submit documentation to their contracted MCOs regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. - J. ...

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 127. Reimbursement

§12701. General Provisions

A. The department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

A.1. - D....

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

§12705. In-State Therapeutic Group Homes

A. In-state publicly and privately owned and operated therapeutic group homes shall be reimbursed according to the MCO established rate within their contract.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

§12707. Out-of-State Therapeutic Group Homes

A. Out-of-state therapeutic group homes shall be reimbursed for their services according to the rate established by the MCO.

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, Bureau of Health Services Financing, LR 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

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.

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Therapeutic Group Homes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$432 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing therapeutic group homes (TGH) in order to: 1) reflect the CSoC contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirement for OBH certification of providers; and 3) reflect that TGH are carved out of management by the CSoC contractor as a technical change to align with current practice and existing contract requirements. It is anticipated that implementation of this proposed rule will not have economic cost or benefit to TGH providers for FY 17-18, FY 18-19 and FY 19-20. The current payments made to the CSoC contractor are the basis of the capitated rate development for the full-risk contract. Shifting

the payment mechanism is not anticipated to have more than a nominal impact on the overall cost of the wavier program, given its maturity, since the program itself will remain substantially the same.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
 Medicaid Director
 1711#066

Gregory V. Albrecht
 Chief Economist
 Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Office of Public Health

Water Works Construction, Operation and Maintenance
 (LAC 51:XII.Chapters 1, 2, and 3)

Under the authority of R.S. 40:4, 40:4.13, 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 Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). When effective, the proposed amendments to Part XII will assist LDH-OPH in ensuring the continued protection of the health of the public from contaminated drinking water through enforceable construction, operation and maintenance standards that address the proper design, operation and maintenance of public water systems.

The proposed rulemaking is authorized under Act 292 and Act 488 of the Regular Legislative Sessions, 2013 and 2014, respectively. These Louisiana standards were developed and approved by the *Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee* (a.k.a., “water committee”) which was initially created by Act 292 of 2013. The *Recommended Standards for Water Works, 2012 Edition* (commonly referred to as the “Ten State Standards” and published by the Great Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers) was used as the basis of this proposed rule and the text therein was modified by the water committee to develop a customized state version which, in certain instances, is more applicable to the South’s climatic conditions and to Louisiana, in particular. The effective date of the final Rule is proposed to be postponed until August 1, 2018 for the permitting of new public water systems or the modification to existing public water systems. The bulk of the proposed Louisiana standards are contained in the following listed Subchapters (with the general subject matter listed in the same order as in the Ten State Standards).

Chapter 1.	General
Subchapter A.	Submission of Plans §§111-123;
Subchapter B.	General Design §§125-163;
Subchapter C.	Source Development §§165-169;
Subchapter D.	Treatment §§171-191;
Chapter 2.	Public Water System Construction, Operation and Maintenance
Subchapter A.	Chemical Application §§201-209;
Subchapter B.	Pumping Facilities §§211-223;

Subchapter C.	Finished Water Storage §§225-231;
Subchapter D.	Distribution System Piping and Appurtenances §§233-255; and
Subchapter F.	Waste Residuals §§257-275.

For these reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 1. General

§101. Definitions
[formerly paragraph 12:001]

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.

* * *

Average Daily Demand during the Month of Maximum Water Use—the largest volume of flow anticipated to occur during a calendar month, expressed as a daily average.

* * *

Ten State Standards—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:258(B), R.S. 36:254 (B)(7), R.S. 40:4.A.(8), R.S. 40:4.13.D.(1)(2) , R.S. 40:5.A. (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:84 (January 2017), LR 44:

§105. Permit Requirements for a Potable Water Supply
[formerly paragraph 12:002-2]

A. No public water supply shall be constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the state health officer.

B. ...

C. Submission of plans for maintenance and replacement of existing facilities in-kind shall not be required.

D. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the Engineer of Record or the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply.

E. Effective August 1, 2018, the provisions set forth under LAC 51:XII.111-191 and 201-277, together with any additional requirements of the state health officer as set forth in this Part, shall be used as the basis of the design of any new public water system or any proposed new construction or modification to an existing public water system. After a permit by the state health officer has been issued, such system/modification shall be constructed, installed and maintained in accordance with said permit.

F. Permits required by this Section and any related letters issued by the state health officer or copy of letters issued to the state health officer concerning the review of related plans and specifications, as well as the related approved plans and specifications themselves, shall be permanently retained by the owner of the public water system including any subsequent or successor owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), 40:4.13.D.(1)(2) and R.S. 40:5.A.(2)(3) (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002), amended LR 38:2376 (September 2012), amended by the Department of Health, Office of Public Health, LR 44:

§107. Provision for Grandfather Systems
[formerly paragraph 12-002-3]

A. Permits issued and approvals of plans and specifications granted by the state health officer prior to August 1, 2018 shall remain valid as they pertain to the design of the public water supply, unless the revision of such is determined necessary by the state health officer.

B. Notwithstanding §107.A of this Part, every public water system shall undertake corrective action in accordance with §319.B and C of this Part regarding any significant deficiencies, as defined in §319.D of this Part, identified on a sanitary survey conducted by the state health officer.

C. The owner shall have the burden of proving that a public water system, and any modifications thereto or component parts thereof, was permitted by and conforms to plans and specifications approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), 40:4.13.D.(1)(2) and R.S. 40:5.A.(2)(3) (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002), amended by the Department of Health, Office of Public Health, LR 44:

Subchapter A. Submission of Plans

§111. General Requirements

A. All reports, final plans, specifications, and design criteria required by §105 of this Part shall be submitted at least 60 days prior to the date on which action by the state health officer is desired. Environmental assessments, and permits for construction, to take water, for waste discharges, for stream crossings, etc., may be required from other federal, state, or local agencies.

B. No approval for construction can be issued until final, complete, detailed plans and specifications have been submitted to the state health officer and found to be satisfactory.

C. Documents submitted for formal approval shall include but not be limited to:

1. engineer's report, where applicable;
2. summary of the design criteria;
3. operation requirements, where applicable;
4. general layout;
5. detailed plans;
6. specifications;
7. cost estimates;
8. documentation of adequate source of supply (e.g., water purchase contracts between water supplies, and/or inter-municipal agreements), where applicable;

9. evaluation of technical, managerial, and financial capacity where applicable:

a. public water systems are required by the Louisiana Department of Health, Office of Public Health (LDH-OPH) to demonstrate adequate capacity development under LAC 48:V. Subchapter B;

b. except as may otherwise be required under LAC 48:V.77.Subchapter B., the evaluation for existing public water systems shall include:

i. a discussion of the system's current technical capacity along with any project related changes with respect to operator certification requirements and the operator's ability to implement any system changes that may be required upon project completion;

ii. a discussion of the system's current overall management and how the system's management will be impacted by the project including but not limited to whether the system has an asset management plan and, if so, how the project components will be incorporated into that plan;

iii. a discussion of the water system's overall financial capacity along with user projected water rates including the system's outstanding obligations combined with the anticipated debt from the current project under review and the overall operation and maintenance. If applicable, the financial capacity discussion should include details of any energy efficiency components included as part of the project along with the estimated long term cost and energy savings associated with them; and

iv. other additional information as required by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§113. Engineer's Report

A. The engineer's report for water supply system improvements shall, where applicable, present the following information.

1. General information, including:

a. description of the existing water works and sewerage facilities;

b. identification of the municipality or area served;

c. name and mailing address of the owner or official custodian; and

d. imprint of professional engineer's seal or conformance with engineering registration requirements of the Louisiana Professional Engineering and Land Surveying Board.

2. Extent of water supply system, including:

a. description of the nature and extent of the area to be served;

b. provisions for extending the water supply system to include additional areas;

c. appraisal of the future requirements for service, including existing and potential industrial, commercial, institutional, and other water supply needs.

3. Justification of the Project. Where two or more solutions exist for providing public water system facilities, each of which is feasible and practicable, discuss the alternatives. Give reasons for selecting the one recommended, including financial considerations,

operational requirements, operator qualifications, reliability, and water quality considerations.

4. Soil, groundwater conditions, and foundation problems, including a description of:

a. the character of the soil through which water mains are to be laid;

b. foundation conditions prevailing at sites of proposed structures;

c. the approximate elevation of ground water in relation to subsurface structures.

5. Water use data, including:

a. a description of the population trends as indicated by available records, and the estimated population which will be served by the proposed water supply system or expanded system 20 years in the future in 5 year intervals or over the useful life of critical structures and/or equipment;

b. present water consumption and the projected average and maximum daily demands, including fire flow demand (Subchapter C);

c. present and/or estimated yield of the sources of supply;

d. unusual occurrences;

e. current percent of unaccounted water for the system and the estimated reduction of unaccounted for water after project completion if applicable, i.e., project is to replace aged water mains, leaking storage, or other improvements that will result in reduced water loss.

6. Flow requirements, including:

a. hydraulic analyses based on flow demands and pressure requirements (see §237.A)

b. fire flows, when fire protection is provided, meeting the recommendations of the Insurance Services Office or other similar agency for the service area involved.

7. Description of the proposed source or sources of water supply to be developed, the reasons for their selection, and provide information as follows:

a. Surface water sources, including:

i. hydrological data, stream flow and weather records;

ii. safe yield, including all factors that may affect it;

iii. maximum flood flow, together with approval for safety features of the spillway and dam from the appropriate state health officer;

iv. description of the watershed, noting any existing or potential sources of contamination (such as highways, railroads, chemical facilities, land/water use activities, etc.) which may affect water quality;

v. summarized quality of the raw water with special reference to fluctuations in quality, changing meteorological conditions, etc.

vi. source water protection issues or measures, including erosion and siltation control structures that need to be considered or implemented.

b. Groundwater sources, including:

i. sites considered;

ii. advantages of the site selected;

iii. elevations with respect to surroundings;

iv. probable character of formations through which the source is to be developed;

v. geologic conditions affecting the site, such as anticipated interference between proposed and existing wells;

vi. summary of source exploration, test well depth, and method of construction; placement of liners or screen; test pumping rates and their duration; water levels and specific yield; water quality;

viii. sources of possible contamination such as sewers and sewage treatment/disposal facilities, highways, railroads, landfills, outcroppings of consolidated water-bearing formations, chemical facilities, waste disposal wells, agricultural uses, etc.;

ix. wellhead protection measures being considered (see §169 of this Part).

8. Proposed treatment processes, including:

a. a summary establishing the adequacy of proposed processes and unit parameters for the treatment of the specific water under consideration. Bench scale test, pilot studies, or demonstrations may be required to establish adequacy for some water quality standards.

b. Alternative methods of water treatment and chemical use should be considered as a means of reducing waste handling and disposal problems.

9. Sewerage System Available. Describe the existing sewerage system and sewage treatment works, with special reference to their relationship to existing or proposed water supply system structures which may affect the operation of the water supply system, or which may affect the quality of the supply.

10. Waste disposal, including:

a. Discuss the various wastes from the water treatment plant, their volume, proposed treatment and points of discharge.

b. If discharging to a sanitary sewerage system, verify that the system, including any lift stations, is capable of handling the flow to the sewage treatment works and that the treatment works is capable and will accept the additional loading.

11. Automation, including:

a. supporting data justifying automatic equipment, including the servicing and operator training to be provided.

b. Manual override must be provided for any automatic controls.

c. Highly sophisticated automation may put proper maintenance beyond the capability of the plant operator, leading to equipment breakdowns or expensive servicing. Adequate funding shall be assured for maintenance of automatic equipment.

12. Project sites, including:

a. discussion of the various sites considered and advantages of the recommended ones;

b. the proximity of residences, industries, and other establishments;

c. any potential sources of pollution that may influence the quality of the supply or interfere with effective operation of the water supply system, such as sewage absorption systems, septic tanks, privies, cesspools, sink holes, sanitary landfills, refuse and garbage dumps, etc.

13. Financing, including:

a. estimated cost of integral parts of the system, broken down by dollar amount or percentages for source

development, storage, distribution mains, pumping, transmission mains, treatment, and planning (including all soft costs);

- b. detailed estimated annual cost of operation;
- c. proposed methods to finance both capital charges and operating expenses.
- d. Summarize planning for future needs and services.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§115. Plans

A. Plans for water supply system improvements shall, where applicable, provide the following:

- 1. general layout, including:
 - a. suitable title;
 - b. name of municipality, or other entity or person responsible for the water supply;
 - c. area or institution to be served;
 - d. scale;
 - e. north point;
 - f. datum used;
 - g. boundaries of the municipality or area to be served;
 - h. seal, signature and date of the Louisiana licensed professional engineer or in conformance with engineering registration requirements of the Louisiana Professional Engineering and Land Surveying Board;
 - i. imprint of professional engineer's seal or in conformance with engineering registration requirements of the Louisiana Professional Engineering and Land Surveying Board;
 - j. legible prints suitable for reproduction;
 - k. location and size of existing water mains;
 - l. location and nature of existing water supply structures and appurtenances affecting the proposed improvements, noted on one sheet, if possible;
- 2. detailed plans, including:
 - a. stream crossings, providing profiles with elevations of the stream bed and the normal and extreme high and low water levels except where submarine crossings are to be installed by means of directional drilling then the extreme high water level may be omitted;
 - b. profiles having a horizontal scale of not more than 100 feet to the inch and a vertical scale of not more than 10 feet to the inch, with both scales clearly indicated;
 - c. location and size of the property to be used for the groundwater development with respect to known references such as roads, streams, section lines, or streets;
 - d. topography and arrangement of present or planned wells or structures, with contour intervals not greater than two feet;
 - e. elevations of the highest known flood level, floor of the structure, upper terminal of protective casings and outside surrounding grade, using United States Coast and Geodetic Survey, United States Geological Survey or equivalent elevations where applicable as reference;
 - f. plat and profile drawings of well construction, showing diameter and depth of drill holes, casing and liner

diameters and depths, grouting depths, elevations and other details to describe the proposed well completely. Upon completion submit record drawings reflecting geologic formations and water levels;

- g. location of all existing and potential sources of pollution which may affect the water source or, underground treated water storage facilities;
- h. size, length, and materials of proposed water mains;
- i. location of existing or proposed streets; water sources, ponds, lakes, and drains; storm, sanitary, combined and house sewers; septic tanks, disposal fields and cesspools;
- j. schematic flow diagrams and hydraulic profiles showing the flow through various plant units;
- k. piping in sufficient detail to show flow through the plant, including waste lines;
- l. locations of all chemical storage areas, feeding equipment and points of chemical application (see Subchapter B of Chapter 2 of this Part);
- m. all appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains and/or water supply structures;
- n. locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the state health officer;
- o. locations, dimensions, and elevations of all proposed plant facilities;
- p. locations of all sampling taps;
- q. adequate description of any features not otherwise covered by the specifications.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§117. Specifications

A. Complete, detailed technical specifications for those applicable sanitary components shall be supplied for the proposed project, including:

- 1. a program for keeping existing water supply facilities in operation during construction of additional facilities so as to minimize interruption of service;
- 2. laboratory facilities and equipment, including the capacity to perform laboratory analyses of required tests;
- 3. the number and design of chemical feeding equipment (see §201 and §203 of this Part);
- 4. procedures for flushing, disinfection and testing, as needed, prior to placing the project in service;
- 5. materials or proprietary equipment for sanitary or other facilities including any necessary backflow or back-siphonage protection.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§119. Design Criteria

A. A summary of complete design criteria for those applicable sanitary components shall be submitted for the proposed project.

B. The summary shall contain but shall not be limited to the following:

1. long-term dependable yield of the source of supply;
2. reservoir surface area, volume, and a volume-versus-depth curve, if applicable;
3. area of watershed, if applicable;
4. estimated average and maximum day water demands for the design period;
5. number of proposed services;
6. fire fighting requirements;
7. flash mix, flocculation and settling basin capacities;
8. retention times;
9. unit loadings;
10. filter area and the proposed filtration rate;
11. backwash rate;
12. chemical feeder capacities and ranges;
13. minimum and maximum chemical application rates.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§121. Revisions to Approved Plans

A. Any substantial deviations from approved plans or specifications must be approved by the state health officer before such changes are made.

B. Substantial deviations include, but are not limited to deviations in:

1. capacity;
2. hydraulic conditions; and
3. operating units; the functioning of water treatment processes, or the quality of water to be delivered.

C. Revised plans or specifications should be submitted in time to permit the review and approval of such plans or specifications before any construction work, which will be affected by such changes, is begun.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§123. Additional Information Required

A. The state health officer may require additional information which is not part of the construction drawings, such as head loss calculations, proprietary technical data, copies of deeds, copies of contracts, etc.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter B. General Design

§125. Design Basis

A. The system including the water source and treatment facilities shall be designed for average daily flow of the maximum month.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§127. Plant Layout

A. Plant layout, at a minimum, shall consider the following:

1. functional aspects of the plant layout;
2. provisions for future plant expansion;
3. provisions for expansion of the plant waste treatment and disposal facilities;
4. access roads;
5. site grading;
6. site drainage;
7. walks;
8. driveways; and
9. chemical delivery.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§129. Building Layout

A. Building layout shall be designed to provide for:

1. adequate ventilation;
2. adequate lighting;
3. adequate heating;
4. adequate drainage;
5. dehumidification equipment, if necessary;
6. accessibility of equipment for operation, servicing, and removal;
7. flexibility of operation;
8. operator safety;
9. convenience of operation; and
10. if rooms are used chemical storage and feed equipment in a separate room to reduce hazards and dust problems.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§131. Location of Structures

A. The appropriate regulating authority must be consulted regarding any structure which is so located that normal or flood stream flows may be impeded.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§133. Electrical and Controls

A. Electrical equipment, electrical instrumentation and controls shall be located above grade, in areas not subject to flooding or protected from damage due to water inundation.

B. The design of all electrical work for new facilities or modifications to existing facilities shall conform to the applicable requirements of the State Uniform Construction Code, LAC 17:I and any other local code(s) which may have stricter requirements.

C. Existing electrical and controls at facilities may remain provided they do not create an unsafe condition and do not reduce the reliability of the equipment or cause failure to system components.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§135. Standby Power

A. Dedicated standby power shall be provided by any community water supply and any non-community water supply serving a hospital so that water can be treated and/or pumped to the distribution system during power outages to meet the average daily demand during the month of maximum water use.

B. Carbon monoxide detectors should be installed where fuel-fired generators are housed.

C. Alternatives to dedicated standby power may be considered by the state health officer with proper justification.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§137. Laboratory Facilities

A. Each public water system shall have equipment and facilities or contracted services for the routine daily laboratory testing necessary to ensure the proper operation of the water supply system.

B. Laboratory equipment selection shall be based on:

1. the characteristics of the raw water source;
2. the complexity of the treatment process involved;
3. the contaminants or analytes for which monitoring is required or desired; and
4. the particular laboratory methodology and minimum accuracy to be performed for such contaminants or analytes.

C. Laboratory test kits which simplify procedures for making one or more tests may be acceptable.

D. An operator or chemist qualified to perform the necessary laboratory tests shall be required.

E. Other than those analytes allowed to be analyzed in a LDH-OPH Approved Chemical Laboratory/Drinking Water (see Chapter 15 of this Part), analyses conducted to determine compliance with drinking water regulations shall be performed in a LDH-OPH certified or a U. S. Environmental Protection Agency (EPA) certified laboratory in accordance with the requirements of this Part.

F. Persons designing and equipping laboratory facilities shall confer with the state health officer before beginning the preparation of plans or the purchase of equipment. Methods for verifying adequate quality assurances and for routine calibration of equipment shall be provided.

G. Testing Equipment. As a minimum, the following laboratory equipment shall be provided.

1. Surface water systems or groundwater under the direct influence of surface water (GWUDISW) systems shall have a nephelometric turbidimeter meeting the requirements of the approved turbidity methods in Chapter 11 of this Part.

2. Each surface water treatment plant or GWUDISW plant utilizing flocculation and sedimentation, including those which lime soften, shall have a pH meter, jar test equipment, and titration equipment for both hardness and alkalinity.

3. Each ion-exchange softening plant, and lime softening plant treating only groundwater shall have a pH meter and titration equipment for both hardness and alkalinity.

4. Each iron and/or manganese removal plant shall have test equipment capable of accurately measuring iron to a minimum of 0.1 milligrams per liter, and/or test equipment capable of accurately measuring manganese to a minimum of 0.05 milligrams per liter.

5. Public water systems which chlorinate shall have test equipment for determining both free and total chlorine residual by the applicable methods listed in Table 1 of §1105.C of this Part.

6. If a public water system adjusts its fluoride level, equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the state health officer.

7. Public water systems which feed poly and/or orthophosphates shall have test equipment capable of accurately measuring phosphates from 0.1 to 20 milligrams per liter or to 0.1 to 1.2 times the target dose whichever is less.

8. Public water systems that use chlorine dioxide shall have test equipment for determining both chlorine dioxide and chlorite residual by the applicable methods listed in §1301 of this Part.

9. Surface water systems, GWUDISW systems, and any groundwater system required to or choosing to achieve a minimum CT value [residual disinfectant concentration ("C") times the contact time ("T") when the pipe, vessel, etc., is in operation] at or before the first customer shall have a method of measuring water temperature using a thermometer or thermocouple with a minimum accuracy of plus or minus 0.5 degrees Celsius (0.5°C).

H. Physical Facilities. Where laboratory facilities are provided each public water system shall provide:

1. sufficient bench space;
2. adequate ventilation;
3. adequate lighting;
4. storage room;
5. laboratory sink; and
6. auxiliary facilities (e.g., restroom facilities available on-site of the in-house lab for the operator, analyst, or chemist running the lab tests; special fire-proof cabinets for storing volatile reagents as may be required by the state fire marshal; special ventilation hoods as may be required by OSHA over the work area; refrigerator; Bunsen burner, stirrers; etc.);
7. air conditioning may be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§139. Monitoring Equipment

A. Water treatment plants shall be provided with equipment (including recorders, where applicable) to monitor the water as follows.

1. Plants treating ground water using iron removal and/or ion exchange softening shall have the capability to monitor and record free chlorine residual.

2. Ion exchange plants for nitrate removal shall continuously monitor and record the treated water nitrate level.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§141. Sample Taps

A. Sampling facilities shall be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water.

B. Taps shall be consistent with sampling needs and shall not be of the petcock type.

C. Taps used for obtaining samples for bacteriological analysis:

1. shall be: of the smooth-nosed type without interior or exterior threads:

2. shall not be of the mixing type; and

3. shall not have a screen, aerator, or other such appurtenance.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§143. Facility Water Supply

A. The water treatment plant’s service connection line and the finished water sample tap line shall both be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time has been achieved (see §179.C of this Part).

B. In some cases the take off point of the water treatment plant’s own service connection line and the finished water sample tap line may be downstream of the plant itself but at or before the first customer.

C. There shall be no cross-connections between the water treatment plant’s service connection line or the finished water sample tap line and any piping, troughs, tanks, or other treatment units containing wastewater, treatment chemicals, raw or partially treated water.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§145. Wall Castings

A. Consideration shall be given to providing extra wall castings built into the structure to facilitate future uses whenever pipes pass through walls of concrete structures.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§147. Meters

A. All public water systems shall have an acceptable means of measuring the flow from: each source, the washwater, the recycled water and any blended water of different quality, and the finished water.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§149. Piping Color Code

A. Except for those systems that comply with Louisiana Revised Statute 40:4.12, a water supply system shall utilize the color scheme provided in Table 149.B below to facilitate the identification of above ground piping in treatment plants and pumping stations.

Table 149.B Piping Color Code	
Water Lines	
Raw or Recycle	Olive Green
Settled or Clarified	Aqua
Finished or Potable	Dark Blue
Chemical Lines	
Alum or Primary Coagulant	Orange
Ammonia	White
Carbon Slurry	Black
Caustic	Yellow with Green Band
Chlorine (Gas or Solution)	Yellow
Chlorine Dioxide	Yellow with Violet Band
Fluoride	Light Blue with Red Band
Lime Slurry	Light Green
Ozone	Yellow with Orange Band
Phosphate Compounds	Light Green with Red Band
Polymers or Coagulant Aids	Orange with Green Band
Potassium Permanganate	Violet
Soda Ash	Light Green with Orange Band
Sulfuric Acid	Yellow with Red Band
Sulfur Dioxide	Light Green with Yellow Band
Waste Lines	
Backwash Waste	Light Brown
Sludge	Dark Brown
Sewer (Sanitary or Other)	Dark Gray
Other	
Compressed Air	Dark Green
Gas	Red
Reclaimed Water	Purple
Other liquids	Light Gray with a label

B. Any nonpotable water lines considered as plumbing (e.g., piping and outlets conveying nonpotable water within an office building, restroom, or other structure normally served by finished, potable water) and located on the water supply system’s property is required to be identified in accordance with the State Uniform Construction Code, LAC 17:1.

C. In lieu of the color coding of pipes as described above, all pipes may be painted similar colors as long as each and every pipe is banded and labeled at 5 foot intervals with the name of the liquid or gas clearly displayed on the pipe. Arrows indicating the direction of flow should be included in this labeling or utilize other methods approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§151. Disinfection

A. Water from new systems, or from any new part(s) of existing systems shall not be furnished for consumer’s use

until all wells, pipes, tanks, and equipment which can convey or store potable water are disinfected in accordance with AWWA procedures as required in §§169, 225, and 245 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§153. Operation and Maintenance Manual

A. An operation and maintenance manual shall be supplied to the water supply system as part of any proprietary unit installed in the facility.

B. The manual shall provide:

1. a parts list;
2. a parts order form,
3. operator safety procedures; and
4. an operational trouble-shooting section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§155. Operator Instruction

A. Provisions shall be made for operator instruction at the start-up of a plant or pumping station.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§157. Safety

A. Consideration shall be given to the safety of water plant personnel and visitors.

B. The design shall comply with all applicable safety codes and regulations that include, but are not limited to, the codes adopted under the authority of Act 12 of the 2005 First Extraordinary Session, State Fire Marshal regulations (see LAC 55:V), National Fire Protection Association (NFPA) standards, and state and federal Occupational Health and Safety Administration (OSHA) standards.

C. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§159. Security

A. Security measures including but not limited to the requirements of §§315.A and 327.A.13 of this Part, shall be installed and instituted.

B. Design measures to help ensure the security of water system facilities shall be incorporated and, as a minimum, shall include a means to lock all exterior doorways, windows, gates and other entrances to source, production, treatment, pumping and water storage facilities.

C. Other measures may include signage, closed circuit monitoring, real-time water quality monitoring, and intrusion alarms, as well as safety measures to prevent

tampering with any electronic, computer or other automated system which may operate or assist in the operation of the water supply system.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§161. Flood Protection

A. Other than surface water intakes, all critical water supply facilities shall be protected to at least the 100-year flood elevation.

B. The water supply system shall provide high water vehicles, boats, or other acceptable means and methods to be able to access, safely operate, and maintain its critical water supply facilities during floods or other high water events.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§163. Design; Other Considerations

A. Consideration shall be given to the design requirements of other federal, state, and local regulatory agencies for items including, but not limited to:

1. energy efficiency;
2. water conservation;
3. environmental impact;
4. safety requirements;
5. special designs for the handicapped;
6. plumbing and electrical codes; and
7. construction in the flood plain.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter C. Source Development

§165. General Requirements

A. In selecting the source of water supply to be developed, the designing engineer shall prove to the satisfaction of the state health officer and other applicable reviewing authorities that an acceptable source having an adequate quantity of water will be available, and that the water which is to be delivered to the consumers shall be adequately treated, when necessary or required, to meet the current requirements of the state health officer with respect to microbiological, physical, chemical and radiological qualities.

B. Each water supply system should take its raw water from the best available source which is economically reasonable and technically possible.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§167. Surface Water

A. A source water protection plan enacted for continued protection of the watershed from potential sources of contamination shall be provided as determined by the state health officer. Surface water includes sources of water supply such as, but not limited to:

1. all streams;

2. tributary streams;
3. drainage basins,
4. natural and man-made ponds and lakes; and
5. artificial reservoirs or impoundments.

B. Surface Water Quantity. The quantity of water at the source shall be adequate to meet the maximum projected water demand of the service area as shown by calculations based on a 1 in 50 year drought or the extreme drought of record, and should include consideration of multiple year droughts. Requirements for minimum flows downstream of the intake shall:

1. comply with requirements of the appropriate reviewing authority/authorities;
2. provide a reasonable surplus for anticipated growth;
3. be adequate to compensate for all losses such as silting, evaporation, seepage, etc; and
4. be adequate to provide ample water for other legal users of the source.

C. Surface Water Quality. A study shall be made of the factors, both natural and man-made, which may affect water quality in the water supply stream, river, lake or reservoir and shall include, but not be limited to:

1. determining possible future uses of impoundments or reservoirs;
2. determining degree of control of watershed by owner;
3. assessing degree of hazard to the supply posed by agricultural, domestic, industrial, or recreational activities in the watershed, which may generate toxic or harmful substances detrimental to treatment processes;
4. assessing all waste discharges (point source and non-point sources) and activities that could impact the water supply. The location of each waste discharge shall be shown on a scale map;
5. obtaining samples over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water;
6. assessing the capability of the proposed treatment process to reduce contaminants to applicable standards; and
7. consideration of currents, wind and ice conditions, salt water wedges/intrusion and the effect of confluencing streams.

D. Structures. Structures shall be designed in accordance with the following requirements.

1. The design of intake structures shall provide for:
 - a. withdrawal of water from more than one level if quality varies with depth, as determined by the state health officer;
 - b. separate facilities for release of less desirable water held in storage;
 - c. inspection of manholes every 1000 feet for pipe sizes large enough to permit visual inspection;
 - d. occasional cleaning of the inlet line;
 - e. adequate protection against rupture by dragging anchors, ice, etc.;
 - f. ports located above the bottom of the stream, lake or impoundment, but at sufficient depth to be kept submerged at low water levels;
 - g. where shore wells are not provided, a diversion device capable of keeping large quantities of fish or debris from entering an intake structure; and

h. when buried surface water collectors are used, sufficient intake opening area must be provided to minimize inlet headloss. Particular attention should be given to the selection of backfill material in relation to the collector pipe slot size and gradation of the native material over the collector system.

2. Raw water pumping wells shall:

- a. have motors and electrical controls located above grade, and protected from flooding as required by the state health officer;
- b. be accessible;
- c. be designed against flotation;
- d. be equipped with removable or traveling screens before the pump suction well;
- e. provide for introduction of chlorine or other chemicals in the raw water transmission main if necessary for quality control;
- f. have intake valves and provisions for backflushing or cleaning by a mechanical device and testing for leaks, where practical;
- g. have provisions for withstanding surges where necessary; and
- h. be constructed in a manner to prevent intrusion of contaminants.

3. Off Stream Raw Water Storage Reservoirs. An off-stream raw water storage reservoir is a facility into which water is pumped during periods of good quality and high stream flow for future release to treatment facilities. The off-stream raw water storage reservoirs shall be constructed to assure that:

- a. water quality is protected by controlling runoff into the reservoir;
- b. dikes are structurally sound and protected against wave action and erosion;
- c. intake structures and devices meet requirements of §167.D.1;
- d. point of influent flow is separated from the point of withdrawal;
- e. separate pipes are provided for influent to and effluent from the reservoir; and
- f. a bypass line is provided around the reservoir to allow direct pumping to the treatment facilities.

E. Nuisance Plant or Animal. If it is determined that chemical treatment is warranted for the control of nuisance plants or animals treatment shall be in accordance with Subchapter D of Chapter 1 of this Part and shall be acceptable to the state commissioner of agriculture and the state health officer. In addition, the following requirements shall be met.

1. Chemical treatment shall be in accordance with the manufacturer's label and application instructions, the Louisiana Pesticide Law (R.S. 3:3201, et seq.) and its implementing rules and regulations [see LAC Title 7 (Agriculture and Animals), Part XXIII (Pesticides) including, but not limited to, Chapter 31 (Water Protection)], LAC Title 51 (Public Health—Sanitary Code) Part XII (Water Supplies).

2. Chemical treatment shall be performed in such a manner as to prevent a USEPA (or state-equivalent) maximum contaminant level of a primary drinking water contaminant to be exceeded in finished drinking water.

3. Any analyses of finished drinking water to confirm whether or not a USEPA (or state-equivalent) maximum contaminant level of a primary drinking water contaminant has been exceeded shall only be acceptable if the water sample is collected, transported and stored in accordance with USEPA-approved methods [see 40 CFR Part 136.3, Table II] and then analyzed by a LDH - Certified Chemical Laboratory/Drinking Water.

4. In all cases involving a pesticide application for nuisance plant or animal control, when the water being treated is a source of water supply, the final determination of the safety of finished drinking water shall be made exclusively by the state health officer

a. Facility safety items, including but not limited to ventilation, operator protective equipment, eyewashes/showers, cross connection control, etc. shall be provided;

b. Solution piping and diffusers shall be installed within the intake pipe or in a suitable carrier pipe.

c. Provisions shall be made to prevent dispersal of chemical into the water environment outside the intake. Diffusers shall be located and designed to protect all intake structure components;

d. A spare solution line should be installed to provide redundancy and to facilitate the use of alternate chemicals;

e. The chemical feeder shall be interlocked with plant system controls to shut down automatically when the raw water flow stops;

f. when alternative control methods are proposed for nuisance plant and animal control, appropriate piloting or demonstration studies, satisfactory to the state health officer, may be required.

F. Impoundments and Reservoirs. Site preparation of impoundments and reservoirs shall provide where applicable:

1. removal of brush and trees to high water elevation;

2. protection from floods during construction;

3. abandonment of all wells which will be inundated, in accordance with requirements of the Department of Natural Resources, Office of Conservation, and the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§169. Groundwater

A. A groundwater source includes all water obtained from:

1. dug;

2. drilled;

3. bored or driven wells;

4. springs; and

5. infiltration lines.

B. Groundwater quantity shall conform to the following standards.

1. Source capacity. The total developed groundwater source capacity, unless otherwise specified by the state health officer, shall equal or exceed the design maximum day demand with the largest producing well out of service.

2. Number of Sources. When groundwater is the only source of water supply for any community water supply or for any non-community water supply serving a hospital, a minimum of two approved and active groundwater wells (or, if not a second well, connection to another approved water supply of sufficient capacity) shall be provided, unless otherwise specified by the state health officer.

a. Each of these two groundwater wells (or, if not a second well, connection to another approved water supply of sufficient capacity) shall be maintained and regularly operated to ensure that each one can immediately supply safe drinking water into the system when the other fails.

b. Consideration should be given to locating redundant sources in different aquifers or different locations of an aquifer.

3. Standby power. To ensure continuous service provided by any community water supply and any non-community water supply serving a hospital when the primary power has been interrupted, a standby power supply shall be provided through a dedicated portable or in-place auxiliary power of adequate supply and connectivity. When automatic pre-lubrication of pump bearings is necessary, and an auxiliary power supply is provided, design shall assure that the pre-lubrication is provided when auxiliary power is in use.

C. Groundwater quality shall conform to the following standards.

1. An assessment should be made of the factors, both natural and man-made, which may affect water quality in the well and aquifer. Such an assessment may include, obtaining samples over a sufficient period of time to assess the microbiological and physical characteristics of the water including dissolved gases, chemical, and radiological characteristics.

2. Unless LDH-OPH's exclusion criteria are met, a ground water under the direct influence of surface water (GWUDISW) determination acceptable to the state health officer shall be provided for all new wells.

a. Part of this determination shall include the proper submission of one or more 1 micron filters through which at least 500 gallons of produced groundwater being tested have passed at a regulated flow rate over a period of no more than a 24 hours.

b. Such filters shall be refrigerated, as appropriate, and delivered to a laboratory for the identification of insects or other macroorganisms, algae, rotifers and large diameter pathogens such as Giardia or Cryptosporidium [see USEPA's "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)"].

c. The laboratory utilized shall be recognized by the USEPA for such work and it shall identify such macroorganisms found on the filter and, in the case of Giardia or Cryptosporidium, whether any observed specimens were alive or dead.

d. In addition, the laboratory report shall indicate the overall risk as being either a low, medium, or high occurrence of such macroorganisms.

e. This information, in combination, with other factors mentioned under the definition of GWUDISW contained in Chapter 11 of this Part, shall be used by the

state health officer in determining whether or not a new well will be deemed as a GWUDISW source.

3. Microbiological quality. After disinfection of each new, modified or reconditioned groundwater source, one or more water samples shall be submitted to a LDH-OPH-certified drinking water laboratory for microbiological analysis with satisfactory results reported to the state health officer prior to placing the well into service.

4. Physical, chemical and radiological characteristics. Every new, modified or reconditioned groundwater source shall be examined for applicable physical, chemical and radiological characteristics as required by the state health officer by tests of representative samples in a LDH-OPH certified drinking water laboratory, with results reported to the state health officer.

a. Samples shall be collected and analyzed at the conclusion of the test pumping procedure.

b. Field determinations of physical and chemical constituents or special sampling procedures may be required by the state health officer.

D. Groundwater location shall conform to the following requirements.

1. Well location. The state health officer shall be consulted prior to design and construction regarding proposed well location as it relates to required separation between existing and potential sources of contamination and groundwater development.

a. All ground water sources of water supply shall comply with the following requirements.

i. The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in Footnote 4 of a.ii below) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than 10 feet for potable water supplies.

ii. Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the state health officer.

Table 169.D.1.a.ii. Sources of Contamination	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100 ²
Another water-well	25 ³
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50 ⁴

¹This distance may be reduced to 30 feet if the sewer is of ductile iron with water-tight joints or pressure rated plastic pipe.

²For a private water well this distance may be reduced to 50 feet.

³This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

⁴Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a 10-year period.

iii. No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

iv. There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within 50 feet of such water supply, except properly constructed well, pump, or valve pits as covered under §329.A.4 of this Part.

v. Earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

b. A well shall be located far enough from a building to allow reworking or rehabilitation with a drilling rig. A well shall not be located below ground surface, such as in pits and basements, and shall not be located within the foundation of a building, except a building constructed solely to house pumping and water system equipment.

c. Groundwater development shall be in conformance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction.

2. Continued sanitary protection of the well site from potential sources of contamination shall be provided by having a minimum 50-foot radius of ownership and a minimum 100-foot radius of control from the well head. The radius of control required beyond the minimum 50-foot radius of ownership shall be provided either through ownership, zoning, easements, leasing or other means acceptable to the state health officer which shall be maintained for the life of the well until the well is ultimately properly abandoned.

3. Wellhead Protection. Wellhead protection assessment for continued protection of the wellhead from potential sources of contamination shall be provided as determined by the state health officer.

E. General Well Construction. All wells constructed to serve a potable water supply shall be constructed in accordance with LAC 56, Part I, Water Wells. Drillers of wells that serve a potable water supply shall comply with these requirements pursuant to Louisiana Revised Statutes 38:2226, 38:3098-3098.8. In addition, the following requirements shall be met.

1. Drilling fluids and additives shall:

a. not impart any toxic substances to the water or promote bacterial contamination; and

b. be acceptable to the state health officer.

2. Minimum protected depths of drilled wells shall provide watertight construction to such depth as may be required by the state health officer, to:

a. exclude contamination; and

b. seal off formations that are, or may be, contaminated or yield undesirable water.

3. All well and spring basin casings or curbsings shall extend a safe distance below the ground surface. The

minimum depth of casings or curbing shall not be less than 50 feet in the case of public water supplies and not less than 10 feet in the case of private water supplies.

4. Polyvinyl Chloride Plastic. The state health officer may approve the use of PVC casing for all or for limited applications. PVC casing shall not be used at sites where permeation by hydrocarbons or degradation may occur.

5. Other Nonferrous Casing Materials. Approval of the use of any nonferrous material as well casing shall be subject to special determination by the state health officer prior to submission of plans and specifications. Nonferrous material proposed as a well casing must be resistant to the corrosiveness of the water and to the stresses to which it will be subjected during installation, grouting and operation.

6. Packers. Packers shall be of material that will not impart taste, odor, toxic substances or bacterial contamination to the well water. Lead packers shall not be used.

7. Screens. Screens shall be provided with a bottom plate or washdown bottom fitting of the same material as the screen.

8. Upper terminal well construction shall be in accordance with the following requirements.

a. In wells with pipe casings, the casings shall project at least 12 inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions.

i. Dug well linings shall extend at least 12 inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least 2 inches over the walls or curbing of such wells.

ii. In flood-prone areas the top of the casing shall be at least two feet above the 100-year flood elevation, but in no case less than two feet above the ground surface.

b. Where a well house is constructed, the floor surface shall be at least six inches above the final ground elevation.

c. Sites subject to flooding shall be provided with an earth mound to raise the pumphouse floor to an elevation at least two feet above the 100-year flood elevation or other suitable protection as determined by the state health officer.

d. Protection from physical damage shall be provided as required by the state health officer.

e. The upper terminal shall be constructed to prevent contamination from entering the well.

f. Where well appurtenances protrude through the upper terminal, the connections to the upper terminus shall be mechanical or welded connections that are water tight.

9. Disinfection of every new, modified or reconditioned groundwater source shall:

a. be provided after completion of work, if a substantial period elapses prior to test pumping or placement of permanent pumping equipment;

b. be provided after placement of permanent pumping equipment; and

c. be done in accordance with AWWA C654 or method approved by the state health officer.

10. Well Abandonment. Abandoned water wells and well holes shall be plugged in accordance with LAC 56, Part I, Water Wells.

F. Testing and records shall comply with the following requirements.

1. Yield and Drawdown Tests shall:

a. be conducted in accordance with a protocol pre-approved by the reviewing authority;

b. be performed on every production well after construction or subsequent treatment and prior to placement of the permanent pump;

c. utilize methods clearly indicated in the project specifications;

d. be performed with a test pump with a capacity at least 1.5 times the flow anticipated at maximum anticipated drawdown;

e. shall provide, as a minimum, for continuous pumping for at least 24 hours at the design pumping rate or until stabilized drawdown has continued for at least six hours when test pumped at 1.5 times the design pumping rate, or as required by the state health officer;

f. provide the following data to be submitted to the state health officer:

i. test pump capacity-head characteristics;

ii. static water level;

ii. depth of test pump setting;

iii. time of starting and ending each test cycle; and

iv. the zone of influence for the well or wells;

g. provide a report which details recordings and graphic evaluation of the following at one hour intervals or less as may be required by the state health officer:

i. pumping rate;

ii. pumping water level;

iii. drawdown; and

iv. water recovery rate and levels;

h. at the discretion of the state health officer, more comprehensive testing may be required.

2. Plumbness and alignment shall conform to the following requirements.

a. Every well shall be tested for plumbness and alignment in accordance with AWWA Standard for Water Wells (A100).

b. The test method and allowable tolerance shall be clearly stated in the specifications.

c. If the well fails to meet these requirements, it may be accepted by the engineer if it does not interfere with the installation or operation of the pump or uniform placement of grout or affect long term integrity.

3. Geological data shall:

a. be determined from samples collected at 5-foot intervals and at each pronounced change in formation;

b. be recorded and submitted to the Louisiana Department of Natural Resources, Office of Conversation (DNR-OC) and the state health officer.

c. be supplemented with a driller's log, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drill hole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, water levels, and location of any blast charges.

4. The owner of each well shall retain all records pertaining to each well, until the well has been properly abandoned.

G. Aquifer Types and Construction Methods. Aquifer types and construction methods shall conform to the following requirements.

1. Criteria for sand or gravel wells.
 - a. If clay or hard pan is encountered above the water bearing formation, the permanent casing and grout shall extend through such materials or at least 50 feet below the original ground elevation, whichever is lower.
 - b. If a sand or gravel aquifer is overlaid only by permeable soils the permanent casing and grout shall extend to at least 50 feet below original or final ground elevation, whichever is lower. Excavation of topsoil around the well casing should be avoided.
 - c. If a temporary surface casing is used, it shall be completely withdrawn.
 - d. If a permanent surface casing is used, it shall be grouted in place.
2. The following requirements shall apply to gravel pack materials.
 - a. Gravel pack materials shall
 - i. be sized based on sieve analysis of the formation; and
 - ii. be well-rounded particles, 95 percent siliceous material, that are smooth and uniform, free of foreign material, properly sized, washed and then disinfected immediately prior to or during placement.
 - b. Gravel pack installation shall:
 - i. be in one continuous operation.
 - ii. provide the material be placed in a manner that prevents segregation and gradation during placement.
 - c. The annular space between the well screen and the hole shall be adequate to allow proper placement of gravel pack.
 - d. Gravel refill pipes, when used, shall be Schedule 40 steel pipe incorporated within the pump foundation and terminated with screwed or welded caps at least 12 inches above the pump house floor.
 - e. Gravel refill pipes located in the grouted annular opening shall be surrounded by a minimum of 1 ½ inches of grout.
 - f. Gravel pack shall extend above the highest well screen with an allowance for settling.
 - g. Protection from leakage of grout into the gravel pack or screen shall be provided.
 - h. Permanent inner casing and outer casings shall meet requirements of §169.E.4 of this Part.
3. Radial collectors shall conform to the following:
 - a. Locations of all caisson construction joints and porthole assemblies shall be indicated.
 - b. The caisson wall shall be reinforced to withstand the forces to which it will be subjected.
 - c. Radial collectors be in areas and at depths approved by the state health officer.
 - d. Provisions shall be made to assure that radial collectors are essentially horizontal.
 - e. The top of the caisson shall be covered with a watertight floor.
 - f. All openings in the floor shall be curbed and protected from entrance of foreign material.
 - g. The pump discharge piping shall not be placed through the caisson walls. In unique situations where this is not feasible, a water tight seal must be obtained at the wall.

4. Infiltration lines should be considered only where geological conditions preclude the possibility of developing an acceptable drilled well.

- a. The area around infiltration lines shall be under the control of the water purveyor for a distance acceptable to or required by the state health officer.
- b. Flow in the lines shall be by gravity to the collecting well.
- c. Water from infiltration lines shall be considered as groundwater under the direct influence of surface water unless demonstrated otherwise.

5. Limestone or sandstone wells, where the depth of unconsolidated formations is more than 50 feet, the permanent casing shall be firmly seated in uncreviced or unbroken rock.

- a. Grouting requirements shall be determined by the state health officer.
- b. Where the depth of unconsolidated formations is less than 50 feet, the depth of casing and grout shall be at least 50 feet or as determined by the state health officer.

6. Naturally flowing wells shall require special consideration by the state health officer where there is an absence of an impervious confining layer.

- a. Flow shall be controlled. Overflows shall discharge at least 18 inches above grade and flood level, and be visible. Discharge shall be to an effective drainage structure.
- b. Permanent casing and grout shall be provided.
- c. If erosion of the confining bed appears likely, special protective construction may be required by the state health officer.

H. Well Pumps, Discharge Piping and Appurtenances. Well pumps, discharge piping and appurtenances shall conform to the following requirements.

1. Line Shaft Pumps. Wells equipped with line shaft pumps shall:
 - a. have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half inch into the pump base;
 - b. have the pump foundation and base designed to prevent water from coming into contact with the joint; and
 - c. avoid the use of oil lubrication at pump settings less than 400 feet. Lubricants must meet NSF/ANSI Standard 61 or be approved by the state health officer.
 - d. All water pumps shall be so constructed and installed as to prevent contamination of the water supply.
 - i. Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into the base at least 1 inch above the bottom thereof, and at least 1 inch above the level of the foundation on which the pump rests. The well casing shall project at least 12 inches above ground level or the top of the floor.
 - ii. Where power pumps are not placed directly over the well, the well casing shall extend at least 12 inches above the floor of the pump house. In flood-prone areas the

top of the casing shall extend at least two feet above the 100-year flood elevation, but in no case less than two feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

2. Submersible Pumps. Where a submersible pump is used:

a. the top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables; and

b. the electrical cable shall be firmly attached to the riser pipe at 20 foot intervals or less.

3. Discharge Piping. The design criteria for discharge piping is as follows.

a. The discharge piping shall:

i. be designed to minimize friction loss;

ii. have control valves and appurtenances located above the pumphouse floor when an above-ground discharge is provided;

iii. be protected against the entrance of contamination;

iv. be equipped with a check valve in or at the well, a shutoff valve, a pressure gauge, and a means of measuring flow;

v. be equipped with a smooth nosed sampling tap located at a point before any treatment chemicals are applied. The sample tap shall be at least 18-inches above the floor to facilitate sample collection.

vi. where applicable, be equipped with an air release-vacuum relief valve located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least 18 inches above the floor and covered with a 24 mesh corrosion resistant screen;

vii. be valved to permit test pumping and control of each well;

viii. have all exposed piping, valves and appurtenances protected against physical damage and freezing;

ix. be properly anchored to prevent movement, and be properly supported to prevent excessive bending forces;

x. be protected against surge or water hammer;

xi. conform to §235 of this Part; and

xii. be constructed so that it can be disconnected from the well or well pump to allow the well pump to be pulled.

b. The discharge piping should be provided with a means of pumping to waste, but shall not be directly connected to a sewer.

c. For submersible, jet and line shaft pumps, the discharge, drop or column piping inside the well shall:

i. conform to §235 of this Part; where such standards exist, or in the absence of such standards, conform to applicable product standards and be acceptable to the state health officer. Any lubricants, fittings, brackets, tape or other appurtenances shall meet NSF/ANSI Standards 60/61, where applicable;

ii. be capable of supporting the weight of the pump, piping, water and appurtenances and of withstanding the thrust, torque and other reaction loads created during pumping. The actions of fatigue from repeated starting and

stopping of the pump shall be considered when choosing a pipe and fittings;

iii. be fitted with guides or spacers to center piping and well pump in the casing.

4. Pitless Well Units. Pitless well units shall conform to the following standards and requirements.

a. The state health officer must be contacted for approval of specific applications of pitless units.

b. Pitless units shall:

i. be shop-fabricated from the point of connection with the well casing to the unit cap or cover;

ii. be threaded or welded to the well casing;

iii. be of watertight construction throughout;

iv. be of materials and weight at least equivalent and compatible to the casing;

v. have field connection to the lateral discharge from the pitless unit of threaded, flanged or mechanical joint connection; and

vi. terminate at least 18 inches above final ground elevation or three feet above the 100-year flood level or the highest known flood elevation, whichever is higher, or as the state health officer directs.

c. The design of the pitless unit shall make provision for:

i. access to disinfect the well;

ii. a properly constructed casing vent meeting the requirements of §169.H.6 of this Part;

iii. facilities to measure water levels in the well (see §169.H.7);

iv. a cover at the upper terminal of the well that will prevent the entrance of contamination;

v. a contamination-proof entrance connection for electrical cable;

vi. an inside diameter as great as that of the well casing, up to and including casing diameters of 12 inches, to facilitate work and repair on the well, pump, or well screen; and

vii. at least one check valve within the well casing or in compliance with requirements of the state health officer.

d. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. The only field welding permitted will be that needed to connect a pitless unit to the casing.

5. Pitless Adapters. Pitless adapters may be acceptable at the discretion of the state health officer. The use of any pitless adapter must be pre-approved by the state health officer.

6. Casing Vent. All potable water well casings shall be vented to atmosphere as provided below, with the exception that no vent will be required when single-pipe jet pumps are used.

a. All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination.

b. All vent openings shall be piped water tight to a point not less than 24 inches above the 100-year flood elevation, but in no case less than 24 inches above the ground surface.

i. Such vent openings and extensions thereof shall be not less than 1/2 inch in diameter, covered with a 24

mesh, corrosion resistant screen with extension pipe firmly attached thereto.

ii. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

7. Water Level Measurement. Provisions shall be made for periodic measurement of water levels in the completed well.

a. Where pneumatic water level measuring equipment is used it shall be made:

i. using corrosion-resistant materials attached firmly to the drop pipe or pump column; and

ii. in such a manner as to prevent entrance of foreign materials.

8. Liners may be acceptable at the discretion of the state health officer. The use of any liner must be pre-approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter D. Treatment

§171. General Requirements

A. The design of treatment processes and devices shall depend on evaluation of the nature and quality of the particular water to be treated, seasonal variations, the desired quality of the finished water and the mode of operation planned. Facilities shall be planned with future requirements in mind such as: tightened regulatory requirements, ability to obtain funding, potential growth, expansion and deterioration of existing facilities.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§173. Microscreening

A. Microscreening is a mechanical treatment process capable of removing suspended matter and organic loading from surface water by straining. It shall not be used in place of filtration or coagulation.

1. Design. Design criteria is as followed.

a. consideration shall be given to the following:

i. nature of the suspended matter to be removed;

ii. corrosiveness of the water;

iii. effect of chemicals used for pre-treatment;

iv. duplication of units for continuous operation during equipment maintenance;

v. provision of automated backwashing

b. shall provide:

i. a durable, corrosion-resistant screen;

ii. provisions to allow for by-pass of the screen;

iii. protection against back-siphonage when potable water is used for backwashing;

iv. proper disposal of backwash waters (See Subchapter F, §§257-275 of this Part).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§175. Clarification Design

A. Clarification is generally considered to consist of any process or combination of processes which reduce the concentration of suspended matter in drinking water prior to filtration.

B. Plants designed to treat surface water, groundwater under the direct influence of a surface water, or for the removal of a primary drinking water contaminant shall have the ability to meet the plant's average daily flow of the maximum month with one unit out of service. Design of the clarification process shall:

1. be constructed to permit units to be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time;

2. provide multiple-stage treatment facilities when required by the state health officer; and

3. minimize hydraulic head losses between units to allow future changes in processes without the need for repumping.

C. Presedimentation. Waters containing high turbidity may require pretreatment, usually sedimentation, with or without the addition of coagulation chemicals.

1. Basin Design. Presedimentation basins should have hopper bottoms or be equipped with continuous mechanical sludge removal apparatus, and provide arrangements for dewatering.

2. Inlet. Incoming water shall be dispersed across the full width of the line of travel as quickly as possible to prevent short-circuiting.

3. Bypass. Provisions for bypassing presedimentation basins shall be included.

4. Detention Time. Detention shall consider removal requirements for the unit.

D. Coagulation. Coagulation refers to a process using coagulant chemicals and mixing by which colloidal and suspended material are destabilized and agglomerated into settleable or filterable flocs, or both. The engineer shall submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. For surface water plants using direct or conventional filtration, the use of a primary coagulant is required at all times.

1. Mixing. The detention period should be instantaneous, but not longer than thirty seconds with mixing equipment capable of imparting a minimum velocity gradient (G) of at least 750 feet per second per feet (fps/ft). The design engineer should determine the appropriate G value and detention time through jar testing.

2. Equipment. Basins should be equipped with devices capable of providing adequate mixing for all treatment flow rates. Static mixing may be considered where the flow is relatively constant and will be high enough to maintain the necessary turbulence for complete chemical reactions.

3. Location. The coagulation and flocculation basin shall be as close together as practical.

4. Flow shall be determined at the point of coagulant dosing.

E. Flocculation. Flocculation refers to a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

1. Basin Design. Inlet and outlet design shall minimize short-circuiting and destruction of floc. Basins shall be designed so that individual basins may be isolated without disrupting plant operation. A drain and/or pumps shall be provided to handle dewatering and sludge removal.

2. Detention. Detention shall account for regulatory requirements for the plant.

3. Equipment. Agitators shall be designed to provide variable peripheral speed of paddles ranging from 0.5 to 3.0 feet per second.

4. Other Designs. Variations or alternate designs can be submitted to the state health officer at any time.

5. Piping. Flocculation and sedimentation basins shall be as close together as practical. The velocity of flocculated water through pipes or conduits to settling basins shall be no less than 0.5 feet per second (fps) and no greater than 1.5 fps. Allowances must be made to minimize turbulence at bends and changes in direction.

F. Sedimentation. Sedimentation refers to a process that allows particles to settle by gravity and typically precedes filtration. The detention time for effective clarification is dependent upon a number of factors related to basin design and the nature of the raw water. The following criteria apply to the design of conventional gravity sedimentation units.

1. A minimum of four hours of settling time shall be provided. This may be reduced to two hours for lime-soda softening facilities treating only groundwater. Reduced detention time may also be approved when equivalent effective settling is demonstrated or when the overflow rate is not more than 0.5 gallons per minute [gpm] per square foot [sqft] (1.2 m/hr).

2. Inlet Devices. Inlets shall be designed to distribute the water equally and at uniform velocities. A baffle should be constructed across the basin close to the inlet end and should project several feet below the water surface to dissipate inlet velocities and provide uniform flows across the basin.

3. If flow is split, a means of measuring the flow to each train or unit shall be provided.

4. Velocity. The velocity through a sedimentation basin should not exceed 0.5 feet per minute. The basins shall be designed to minimize short-circuiting. Fixed or adjustable baffles shall be provided as necessary to achieve the maximum potential for clarification.

5. If flow is split, it is recommended that a means of modifying the flow to each train or unit be provided.

6. Outlet Devices. Outlet weirs or submerged orifices shall maintain velocities suitable for settling in the basin and minimize short-circuiting. The use of submerged orifices is recommended in order to provide a volume above the orifices for storage when there are fluctuations in flow. Outlet weirs and submerged orifices shall be designed as follows.

a. The rate of flow over the outlet weirs or through the submerged orifices shall not exceed 20,000 gallons per day per foot (250 m³/day/m) of the outlet launder or orifice circumference.

b. Submerged orifices located greater than three feet below the flow line shall be justified.

c. The entrance velocity through the submerged orifices shall not exceed 0.5 feet per second.

7. Overflow. An overflow weir or pipe designed to establish the maximum water level desired on top of the filters shall be provided. The overflow shall discharge by gravity with a free fall. The discharge shall be equipped with monitoring equipment to annunciate the overflow or be installed at a location where the discharge can be observed.

8. Drainage. Sedimentation basins shall be provided with a means for dewatering. Basin bottoms shall slope toward the drain where mechanical sludge collection equipment is not required.

9. Flushing lines or hydrants shall be provided and shall be equipped with backflow prevention devices acceptable to the state health officer.

10. Sludge collection system shall be designed to ensure the collection of sludge from throughout the basin.

11. Sludge removal design shall provide that:

a. sludge pipes shall be not less than three inches in diameter and arranged to facilitate cleaning;

b. entrance to sludge withdrawal piping shall prevent clogging;

c. valves shall be operable from outside the tank;

d. the operator can observe and sample sludge being withdrawn from the unit.

G. Solids Contact Unit. Plants designed to treat surface water, groundwater under the direct influence of surface water or are required to meet primary drinking water standards using solids contact shall have a minimum of two units. The clarifiers shall be designed for the average daily flow of the maximum month such that the plant's design capacity can be met with one unit out of service.

1. Operating equipment shall include:

a. adequate piping with suitable sampling taps or other means to sample sludge located to permit the collection of samples from various depths of the units; and

b. if flow is split, a means of measuring and modifying the flow to each unit.

2. Consideration shall be given to chemical feed location to ensure proper dosing and application.

3. A rapid mix device or chamber ahead of solids contact units may be required by the state health officer to assure proper mixing of the chemicals applied. Mixing devices within the unit shall be constructed to:

a. provide good mixing of the raw water with previously formed sludge particles; and

b. prevent deposition of solids in the mixing zone.

4. Flocculation. Flocculation equipment:

a. shall be adjustable (speed and/or pitch);

b. shall provide for coagulation in a separate chamber or baffled zone within the unit;

c. should provide a flocculation and mixing period of at least 30 minutes.

5. Sludge Concentrators. Large basins should have at least two sumps for collecting sludge located in the central flocculation zone.

6. Sludge removal design shall provide that:

- a. sludge pipes are not less than three inches in diameter and so arranged as to facilitate cleaning;
- b. entrance to sludge withdrawal piping shall prevent clogging;
- c. valves shall be located outside the tank for accessibility, and
- d. the operator may observe and sample sludge being withdrawn from the unit.

7. Criteria for backflow protection from cross-connections shall be as follows.

- a. Blow-off outlets and drains shall terminate in a location with an acceptable air gap for backflow protection.
- b. A backflow prevention device shall be included on potable water lines used to back flush sludge lines.

8. Detention Period. The detention time shall be established on the basis of the raw water characteristics, regulatory requirements and other local conditions that affect the operation of the unit.

9. Water Losses. Units shall be provided with controls to allow for adjusting the rate or frequency of sludge withdrawal.

10. Weirs or orifices. The units should be equipped with either overflow weirs or orifices constructed so that water at the surface of the unit does not travel over 10 feet horizontally to the collection trough.

- a. Weirs shall be adjustable, and at least equivalent in length to the perimeter of the tank.
- b. Weir loading shall not exceed:
 - i. 10 gpm per foot of weir length (120 L/min/m) for clarifiers;
 - ii. 20 gpm per foot of weir length (240 L/min/m) for softeners.

c. Where orifices are used the loading rates per foot of launder rates should be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank.

11. Upflow Rates. Unless supporting data is submitted to the State Health Officer to justify rates exceeding the following, rates shall not exceed:

- a. 1.0 gpm/sqft (2.4 m/hr) at the sludge separation line for units used for clarifiers;
- b. 1.75 gpm/sqft (4.2 m/hr) at the slurry separation line, for units used for softeners.

H. Tube or Plate Settlers. Settler units consisting of variously shaped tubes or plates which are installed in multiple layers and at an angle to the flow may be used for sedimentation, following flocculation. Proposals for settler unit clarification must demonstrate satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions as allowed by the state health officer prior to the preparation of final plans and specifications for approval.

1. General design criteria for tube or plate settlers is as follows.

a. Inlet and Outlet Considerations. Design to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units shall be designed to minimize maldistribution across the units.

b. Protection from Freezing. In areas where freezing occurs, consideration shall be given regarding sufficient freeboard.

c. Application Rate for Tubes. A maximum rate of 2 gallon per minute per square foot [gpm/sqft] of cross-sectional area (4.8 m/hr) for tube settlers, unless higher rates are successfully shown through pilot plant or in-plant demonstration studies.

d. Application Rates for Plates. A maximum plate loading rate of 0.5 gpm/sqft (1.2 m/hr), based on 80 percent of the projected horizontal plate area.

e. Flushing lines shall be provided to facilitate maintenance and must be properly protected against backflow or back siphonage.

f. Drain piping from the settler units shall be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant.

g. Placement. Modules shall be placed:

- i. in zones of stable hydraulic conditions; and
- ii. in areas nearest effluent launders for basins not completely covered by the modules.

h. Inlets and outlets shall conform to §175.F.2 and §175.F.6 of this Part.

i. The support system shall be able to carry the weight of the modules when the basin is drained plus any additional weight to support maintenance.

j. Provisions shall be made to allow the water level to be dropped, and a water or air jet system for cleaning the modules.

I. High Rate Clarification Processes. High rate clarification processes may be approved upon demonstrating satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions as allowed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§177. Filtration Design

A. Rapid Rate Gravity Filters. General design criteria for rapid rate gravity filters is as follows.

1. Pretreatment. The use of rapid rate gravity filters shall require pretreatment.

2. Rate of Filtration. The rate of filtration shall be determined through consideration of such factors as raw water quality, degree of pretreatment provided, filter media, water quality control parameters, and competency of operating personnel. Typical filtration rates range from 2 to 4 gpm/sqft. Maximum filtration rates for plants treating surface waters or ground water under the influence of surface water shall not exceed 3.0 gpm/sqft. For surface water treatment plants with proposed filtration rates above 3.0 gpm/sqft, data from pilot testing shall be submitted to the state health officer for consideration and approval.

3. Number. Plants employing rapid rate gravity filters shall provide at least two filter units. The filters shall be capable of meeting the plant design capacity at the plants average daily flow of the maximum month with one filter unit removed from service. Where declining rate filtration is provided, the variable aspect of filtration rates, and the

number of filters must be considered when determining the design capacity for the filters.

4. Structural Details and Hydraulics. The filter structure shall be designed to provide for:

- a. vertical walls within the filter;
- b. no protrusion of the filter walls into the filter media;
- c. head room to permit normal inspection and operation;
- d. minimum depth of filter box of 8.5 feet;
- e. minimum water depth over the surface of the filter media of three feet;
- f. trapped effluent to prevent backflow of air to the bottom of the filters;
- g. prevention of floor drainage in to the filter;
- h. prevention of flooding by providing overflow;
- i. maximum velocity of treated water in pipe and conduits to filters of two feet per second;
- j. cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy, or following lime-soda softening;
- k. washwater drain capacity to carry maximum flow;
- l. handrails or walls around filter banks adjacent to normal walkways; and
- m. construction to prevent cross connections and common walls between potable and non-potable water.

5. Washwater troughs should be constructed to have:

- a. the bottom elevation above the maximum level of expanded media during washing;
- b. a two-inch freeboard at the maximum rate of wash;
- c. the top edge level and all at the same elevation;
- d. spacing so that each trough serves the same number of square feet of filter area;
- e. maximum horizontal travel of suspended particles to reach the trough not to exceed three feet;
- f. means to exclude the loss of media when providing for concurrent air/high rate water backwashing; and
- g. a two-inch freeboard at the main wash water gullet at the maximum rate of wash.

6. Filter Material. The granular filter media shall be in accordance with AWWA B100 and have the following characteristics:

- a. a total depth of not less than 24 inches and generally not more than 30 inches;
- b. a uniformity coefficient of the smallest material not greater than 1.65;
- c. a minimum of 12 inches of media with an effective size range no greater than 0.45 mm to 0.55 mm unless specified otherwise per the following.
 - i. Anthracite shall have:
 - (a). an effective size of 0.45 mm - 0.55 mm with uniformity coefficient not greater than 1.65 when used alone;
 - (b). an effective size of 0.8 mm - 1.2 mm with a uniformity coefficient not greater than 1.7 when used as a cap; and
 - (c). an effective size for anthracite used as a single media on potable groundwater for iron and

manganese removal only shall be a maximum of 0.8 mm (effective sizes greater than 0.8 mm may be approved based upon onsite pilot plant studies or other demonstration acceptable to the state health officer).

- ii. Sand shall have:
 - (a). an effective size of 0.45 mm to 0.55 mm; and
 - (b). a uniformity coefficient of not greater than 1.65.
- iii. High density sand shall have:
 - (a). an effective size of 0.2 to 0.3 mm;
 - (b). a uniformity coefficient of not greater than 1.65.
- iv. Granular activated carbon (GAC) shall be in accordance with AWWA B604 and the design of shall meet the following:

(a). The media must meet the basic specifications for filter media as given in §177.A.6.a through §177.A.6.c of this Part.

(b). There shall be provisions for a free chlorine residual and adequate contact time in the water following the filters and prior to distribution (See §177.C and §177.D).

(c). There shall be means for periodic treatment of filter material for control of bacterial and other growth.

(d). Provisions shall be made for frequent replacement or regeneration. Regeneration of GAC shall be in accordance with AWWA B604.

v. Other Media. Other media will be considered based on experimental data and operating experience.

d. Characteristics of support media shall include the following.

i. Torpedo Sand. A three-inch layer of torpedo sand shall be used as a supporting media for filter sand where supporting gravel is used, and shall have:

- (a). effective size of 0.8 mm to 2.0 mm; and
- (b). uniformity coefficient not greater than 1.7.

ii. Gravel, when used as the supporting media shall consist of cleaned and washed, hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be 2.5 inches in size when the gravel rests directly on a lateral system, and shall extend above the top of the perforated laterals. Not less than four layers of gravel shall be provided in accordance with the following size and depth distribution.

Size	Depth
3/32 to 3/16 inches	2 to 3 inches
3/16 to 1/2 inches	2 to 3 inches
1/2 to 3/4 inches	3 to 5 inches
3/4 to 1 1/2 inches	3 to 5 inches
1 1/2 to 2 1/2 inches	5 to 8 inches

Reduction of gravel depths and other size gradations may be considered upon justification to the state health officer.

7. Filter bottoms and strainer systems. Departures from these standards may be acceptable for high rate filters and for proprietary bottoms. Porous plate bottoms shall not be used where iron or manganese may clog them or with waters softened by lime. The design of manifold-type collection systems shall:

- a. ensure even distribution of washwater and even rate of filtration over the entire area of the filter;

- b. provide the ratio of the area of the final openings of the strainer systems to the area of the filter at 0.003;
- c. provide the total cross-sectional area of the laterals at twice the total area of the final openings;
- d. provide the cross-sectional area of the manifold at 1.5 to 2 times the total area of the laterals;
- e. lateral perforations without strainers shall be directed downward.

8. Filter media wash facilities are required except for filters used exclusively for iron, radionuclides, arsenic or manganese removal. Wash water systems shall be designed with:

- a. water pressure per manufacturer's requirements;
- b. a properly installed vacuum breaker or other approved device to prevent back siphonage if connected to the filtered or finished water system;
- c. rate of flow of 2.0 gallons per minute per square foot of filter area (4.9 m/hr) with fixed nozzles or 0.5 gallons per minute per square foot (1.2 m/hr) with revolving arms if provided.

d. Air scouring. When provided, general design criteria for air scouring is as follows.

i. Air flow for air scouring the filter shall be 3-5 standard cubic feet per minute square foot of filter area (0.9-1.5 m³/min/m²) when the air is introduced in the underdrain; a lower air rate shall be used when the air scour distribution system is placed above the underdrains.

ii. When employing concurrent air scour and water back wash a method for avoiding excessive loss of the filter media during backwashing shall be provided.

iii. Air scouring shall be followed by a fluidization wash sufficient to re-stratify the media.

iv. Air shall be free from contamination.

v. Air scour distribution systems should be placed below the media and supporting bed interface; if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system.

vi. Piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity.

vii. Air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water.

viii. The backwash water delivery system must be capable of 15 gallons per minute per square foot of filter surface area (37 m/hr); however, when air scour is provided the backwash water rate must be variable and should not exceed 8 gallons per minute per square foot (20 m/hr) unless operating experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces.

ix. The filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain.

9. Appurtenances. The following shall be provided for every filter:

- a. a means of sampling influent and effluent water sampling taps;

b. a meter indicating the instantaneous effluent rate of flow;

c. where used for surface water, provisions for filtering to waste with appropriate measures for cross connection control;

d. a flow rate controller capable of providing gradual rate increases when placing the filters back into operation; and

e. for surface water or systems using ground water under the direct influence of surface water with three or more filters, on-line turbidimeters shall be installed on the effluent line from each filter. All turbidimeters shall consistently determine and indicate the turbidity of the water in NTUs. Each turbidimeter shall report to a recorder that is designed and operated to allow the operator to accurately determine the turbidity at least once every 15 minutes. Turbidimeters on individual filters should be designed to accurately measure low-range turbidities and have an alarm that will sound when the effluent level exceeds regulatory turbidity limits. It is recommended that turbidimeters be placed in a location that also allows measurement of turbidity during filter to waste.

10. Backwash. Provisions shall be made for washing filters as follows.

a. a minimum rate necessary to provide for a 50 percent expansion of the filter bed shall be provided with a minimum of 15 gpm/sqft. A reduced rate of 10 gallons per minute per square foot (24 m/hr) may be acceptable for full depth anthracite or granular activated carbon filters;

b. filtered water shall be used for backwashing filters;

c. washwater pumps shall be in duplicate unless an alternate means of obtaining washwater is available;

d. a washwater regulator or valve on the main washwater line to obtain the desired rate of filter wash with the washwater valves on the individual filters open wide;

e. a flow meter, preferably with a totalizer, on the main washwater line located so that it can be easily read by the operator during the washing process;

f. design to prevent rapid changes in backwash water flow;

g. automated systems shall be adjustable; and

h. appropriate measures for cross-connection control.

B. Rapid Rate Pressure Filters. The normal use of these filters is for iron and manganese removal. For raw water with iron concentration of 2 mg/L or greater consideration should be given to pretreatment prior to filtration. Pressure filters shall not be used in the filtration of surface or other polluted waters or following lime-soda softening.

1. Minimum criteria relative to rate of filtration, structural details and hydraulics, filter media, etc., provided for rapid rate gravity filters also apply to pressure filters where appropriate. At least two filter units shall be provided. The filters shall be capable of meeting the average daily flow of the maximum month with one filter unit removed from service.

2. Rate of Filtration. The rate shall not exceed six gallons per minute per square foot of filter area except where manufacturer's performance studies of the unit have

demonstrated to the satisfaction of the state health officer that higher filtration rates are achievable. Consideration shall be given to backwash frequency and deteriorating water quality when selecting the filtration rate.

3. The filters shall be designed to provide for:

- a. loss of head gauges on the inlet and outlet pipes of each filter;
- b. an easily readable meter or flow indicator on each battery of filters;
- c. filtration and backwashing of each filter individually;
- d. minimum side wall shell height of five feet for vertical filters. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth;
- e. the top of the washwater collectors to be at least 18 inches above the surface of the media;
- f. the underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than 15 gallons per minute per square foot of filter area;
- g. backwash flow indicators and controls that are easily readable while operating the control valves;
- h. an air release valve on the highest point of each filter;
- i. an accessible manhole of adequate size to facilitate inspection and repairs for filters 36 inches or more in diameter. Manholes should be at least 24 inches in diameter where feasible;
- j. means to observe the wastewater during backwashing; and
- k. construction to prevent cross-connection.

C. Diatomaceous Earth Filtration. The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination.

1. Conditions of Use. Diatomaceous earth filters are expressly excluded from consideration for the following conditions:

- a. bacteria removal;
- b. color removal;
- c. turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; and
- d. filtration of waters with high algae counts.

2. Pilot Plant Study. Installation of a diatomaceous earth filtration system shall be preceded by a pilot plant study on the water to be treated.

- a. Conditions of the study such as duration, filter rates, head loss accumulation, slurry feed rates, turbidity removal, bacteria removal, etc., must be approved by the state health officer prior to the study.
- b. Satisfactory pilot plant results must be obtained prior to preparation of final construction plans and specifications.
- c. The pilot plant study must demonstrate the ability of the system to meet applicable drinking water standards at all times.

3. Types of Filters. Pressure or vacuum diatomaceous earth filtration units will be considered for approval. However, the vacuum type is preferred for its ability to accommodate a design which permits observation of the

filter surfaces to determine proper cleaning, damage to a filter element, and adequate coating over the entire filter area.

4. Treated water storage capacity in excess of normal requirements shall be provided to:

- a. allow operation of the filters at a uniform rate during all conditions of system demand at or below the approved filtration rate, and
- b. guarantee continuity of service during adverse raw water conditions without by-passing the system.

5. Number of Units. At least two units shall be provided. Where only two units are provided, each shall be capable of meeting the plant design capacity (normally the projected maximum daily demand) at the approved filtration rate. Where more than two filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service.

6. Pre-coating criteria includes the following.

a. Application. A uniform precoat shall be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste or recirculation system.

b. Quantity. Diatomaceous earth in the amount of 0.2 pounds per square foot of filter area (0.98 kg/m²) or an amount sufficient to apply a 1/8 inch coating should be used with recirculation.

7. A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses.

a. Rate of body feed is dependent on raw water quality and characteristics and shall be determined in the pilot plant study.

b. Operation and maintenance can be simplified by providing accessibility to the feed system and slurry lines.

c. Continuous mixing of the body feed slurry is required.

8. Filtration criteria includes the following.

a. Rate of Filtration. The recommended nominal rate is 1.0 gallon per minute per square foot of filter area (2.4 m/hr) with a recommended maximum of 1.5 gallons per minute per square foot (3.7 m/hr). The filtration rate shall be controlled by a positive means.

b. Head Loss. The head loss shall not exceed 30 psi (210 kPa) for pressure diatomaceous earth filters, or a vacuum of 15 inches of mercury (51 kPa) for a vacuum system.

c. Recirculation. A recirculation or holding pump shall be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of 0.1 gallon per minute per square foot of filter area (0.24 m/hr) shall be provided.

d. Septum or Filter Element. The filter elements shall be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and shall be spaced such that no less than one inch is provided between elements or between any element and a wall.

e. Inlet Design. The filter influent shall be designed to prevent scour of the diatomaceous earth from the filter element.

9. Backwash. A satisfactory method to thoroughly remove and dispose of spent filter cake shall be provided (see Subchapter F. §§257-275 of this Part).

10. The following appurtenances shall be provided for every filter:

- a. a means of sampling for raw and filtered water;
- b. loss of head or differential pressure gauge;
- c. rate-of-flow indicator, preferably with totalizer;
- d. a throttling valve used to reduce rates below normal during adverse raw water conditions;
- e. evaluation of the need for body feed, recirculation, and any other pumps, in accordance with §217 of this Part; and
- f. provisions for filtering to waste with appropriate measures for backflow prevention.

D. Slow Sand Filters. The use of these filters shall require prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific raw water supply.

1. Quality of Raw Water. Slow rate gravity filtration shall be limited to waters having maximum turbidities of 10 units and maximum color of 15 units; such turbidity shall not be attributable to colloidal clay. Microscopic examination of the raw water shall be made to determine the nature and extent of algae growths and their potential adverse impact on filter operations.

2. Number. At least two units shall be provided. Where only two units are provided, each shall be capable of meeting the plant design capacity (normally the projected maximum daily demand) at the approved filtration rate. Where more than two filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service.

3. Structural Details and Hydraulics. Slow rate gravity filters shall be so designed as to provide:

- a. headroom to permit normal movement by operating personnel for scraping and sand removal operations;
- b. adequate access hatches and access ports for handling of sand and for ventilation; and
- c. an overflow at the maximum filter water level.

4. Rates of Filtration. The permissible rates of filtration shall be determined by the quality of the raw water and shall be on the basis of experimental data derived from the water to be treated. The nominal rate may be 45 to 150 gallons per day per square foot of sand area (1.8 - 6.1 m/day), with somewhat higher rates acceptable when demonstrated to the satisfaction of the approving authority.

5. Underdrains. Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be placed as close to the floor as possible and spaced so that the maximum velocity of the water flow in the underdrain will not exceed 0.75 feet per second. The maximum spacing of laterals shall not exceed 3 feet if pipe laterals are used.

6. Filter material criteria shall be as follows.

- a. Filter sand shall be placed on graded gravel layers for a minimum depth of 30 inches.
- b. The effective size shall be between 0.15 mm and 0.30 mm. Larger sizes may be considered by the state health officer.

c. The uniformity coefficient shall not exceed 2.5.

d. The sand shall be cleaned and washed free from foreign matter.

e. The sand shall be rebedded when scraping has reduced the bed depth to no less than 19 inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebedding shall utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand.

7. Filter Gravel. The supporting gravel should be similar to the size and depth distribution provided for rapid rate gravity filters (see §177.A.6.d.ii of this Part).

8. Depth of Water on Filter Beds. Design shall provide a depth of at least three to six feet of water over the sand. Influent water shall not scour the sand surface.

9. Control Appurtenances. Each filter shall be equipped with:

- a. means of sampling influent and effluent water;
- b. an indicating loss of head gauge or other means to measure head loss;
- c. an indicating rate-of-flow meter. A means of controlling the rate of filtration and limiting the rate of filtration to a maximum rate shall be provided;
- d. provisions for filtering to waste with appropriate measures for cross connection control; and
- e. an effluent pipe designed to maintain the water level above the top of the filter sand.

10. [Ripening] Slow sand filters shall be operated to waste after scraping or rebedding during a ripening period until the filter effluent turbidity falls to consistently below the regulated drinking water standard established for the system.

E. Direct Filtration. Direct filtration, as used herein, refers to the filtration of a surface water following chemical coagulation and possibly flocculation but without prior settling. The nature of the treatment process will depend upon the raw water quality. A full scale direct filtration plant shall not be constructed without prior pilot studies which are acceptable to the state health officer. In-plant demonstration studies may be appropriate where conventional treatment plants are converted to direct filtration. Where direct filtration is proposed, an engineering report shall be submitted prior to conducting pilot plant or in-plant demonstration studies.

1. Engineering Report

a. In addition to the items considered in §113 of this Part, "Engineering Report", the report shall include a historical summary of meteorological conditions and of raw water quality with special reference to fluctuations in quality, and possible sources of contamination. The following raw water parameters shall be evaluated in the report:

- i. color;
- ii. turbidity;
- iii. bacterial concentration;
- iv. microscopic biological organisms;
- v. temperature;
- vi. total solids;
- vii. general inorganic chemical characteristics; and
- viii. additional parameters as required by the state health officer.

b. The report shall also include a description of methods and work to be done during a pilot plant study or, where appropriate, an in-plant demonstration study.

2. Pilot Plant Studies. After approval of the engineering report and pilot plant protocol, a pilot study or in-plant demonstration study shall be conducted. The study must be conducted over a sufficient time to treat all expected raw water conditions throughout the year. The pilot plant filter must be of a similar type and operated in the same manner as proposed for full scale operation. The pilot study must determine the contact time necessary for optimum filtration for each coagulant proposed. The study shall emphasize but not be limited to, the following items:

- a. chemical mixing conditions including shear gradients and detention periods;
- b. chemical feed rates;
- c. use of various coagulants and coagulant aids;
- d. flocculation conditions;
- e. filtration rates;
- f. filter gradation, types of media and depth of media;
- g. filter breakthrough conditions;
- h. adverse impact of recycling backwash water due to solids, algae, trihalomethane formation and similar problems;
- i. length of filter runs;
- j. length of backwash cycles;
- k. quantities and make-up of the wastewater.

Prior to the initiation of design plans and specifications, a final report including the engineer's design recommendations shall be submitted to the state health officer.

3. Pretreatment. The final coagulation and flocculation basin design should be based on the pilot plant or in-plant demonstration studies augmented with applicable portions of §175.D, "Coagulation" and §175.E, "Flocculation" of this Part.

4. Filtration. Filters shall be rapid rate gravity filters with dual or mixed media. The final filter design shall be based on the pilot plant or in-plant demonstration studies and all portions of §177.A "Rapid rate gravity filters" of this Part. Pressure filters or single media sand filters shall not be used.

5. Appurtenances. The following shall be provided for every filter:

- a. influent and effluent sampling taps;
- b. an indicating loss of head gauge;
- c. a meter indicating instantaneous rate of flow;
- d. where used for surface water, provisions for filtering to waste with appropriate measures for cross connection control;
- e. measures for providing gradual rate increases when placing the filters back into operation; and
- f. for systems with three or more filters, on-line turbidimeters shall be installed on the effluent line from each filter. All turbidimeters shall consistently determine and indicate the turbidity of the water in NTUs. Each turbidimeter shall report to a recorder that is designed and operated to allow the operator to accurately determine the turbidity at least once every 15 minutes. Turbidimeters on individual filters should be designed to accurately measure low-range turbidities and have an alarm that will sound when the effluent level exceeds 0.3 NTU.

F. Deep Bed Rapid Rate Gravity Filters. Deep bed rapid rate gravity filters, as used herein, generally refers to rapid rate gravity filters with filter material depths equal to or greater than 48 inches. Filter media sizes are typically larger than those listed in §177.A.6.d of this Part.

1. Deep bed rapid rate filters may be considered based on pilot studies pre-approved by the state health officer.

2. The final filter design shall be based on the pilot plant studies and shall comply with all applicable portions of §177.A. of this Part. Careful attention shall be paid to the design of the backwash system which usually includes simultaneous air scour and water backwash at subfluidization velocities.

G. Biologically Active Filters. Biologically active filtration, as used herein, refers to the filtration of surface water (or a ground water with iron, manganese, ammonia or significant natural organic material) which includes the establishment and maintenance of biological activity within the filter media.

1. Objectives of biologically active filtration may include control of disinfection byproduct precursors, increased disinfectant stability, reduction of substrates for microbial regrowth, breakdown of small quantities of synthetic organic chemicals, reduction of ammonia-nitrogen, and oxidation of iron and manganese. Biological activity can have an adverse impact on turbidity, particle and microbial pathogen removal, disinfection practices; head loss development; filter run times and distribution system corrosion. Design and operation should ensure that aerobic conditions are maintained at all times. Biologically active filtration often includes the use of ozone as a pre-oxidant/disinfectant which breaks down natural organic materials into biodegradable organic matter and granular activated carbon filter media which may promote denser biofilms.

2. Biologically active filters may be considered based on pilot studies pre-approved by the state health officer. The study objectives must be clearly defined and must ensure the microbial quality of the filtered water under all anticipated conditions of operation.

a. The pilot study shall be of sufficient duration to ensure establishment of full biological activity. The pilot study shall establish empty bed contact time, biomass loading, and/or other parameters necessary for successful operation as required by the state health officer.

3. The final filter design shall be based on the pilot plant studies and shall comply with all applicable portions of §177.A. of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§179. Disinfection

A. Disinfection may be accomplished with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, chloramines, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in "Standard Methods for the Examination of Water and Wastewater, ". Disinfection is required for all water systems in accordance with §355 and §357 of this Part.

B. Chlorination. Design criteria for chlorination shall be as follows.

1. Chlorination Equipment Type. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type shall be provided. (see §§201-209 "Chemical Application" of this Part).

2. Capacity. The chlorinator capacity shall be sufficient to comply with minimum chlorine residuals required in §355 and §357 of this Part. The equipment shall be of such design that it will operate accurately over the desired feeding range.

3. Standby Equipment. Standby equipment shall be available to replace/repair a critical unit unless an alternative is approved by the state health officer. Spare parts shall be readily available to replace parts subject to wear and breakage. If there is a large difference in feed rates between routine and emergency dosages, a gas metering tube should be provided for each dose range to ensure accurate control of the chlorine feed.

4. Automatic Switch-Over. Automatic switch-over of chlorine cylinders shall be provided to assure continuous disinfection.

5. Eductor. Each eductor shall be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector water flow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. Gauges for measuring water pressure and vacuum at the inlet and outlet of each eductor should be provided.

6. Injector/Diffuser. The chlorine solution injector/diffuser shall be compatible with the point of application to provide a rapid and thorough mix with all the water being treated.

C. Criteria for Contact Time and Point of Application

1. Due consideration shall be given to the contact time of the disinfectant in water with relation to pH, ammonia, taste-producing substances, temperature, bacterial quality, disinfection byproduct formation potential and other applicable factors. The disinfectant should be applied at a point which will provide adequate contact time (CT). All basins used for disinfection shall be designed to minimize short circuiting.

2. For treating surface waters and groundwaters under the direct influence of surface water, the system shall be designed to meet the CT standards set in Chapter 11 of this Part.

D. Residual Chlorine. Systems shall be designed to meet the minimum disinfectant residual per §355 and §357 of this Part.

E. Testing Equipment. Testing equipment used for compliance monitoring shall comply with approved analytical methods set forth in this Part.

F. Chlorinator Piping. Design criteria for chlorinator piping shall be as follows.

1. Cross-Connection Protection. The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply in accordance with the backflow prevention requirements set forth in §§344 and 346 of this Part.

2. Pipe Material. The pipes carrying elemental liquid or dry gaseous chlorine under pressure shall be Schedule 80 seamless steel tubing or other materials recommended by the

Chlorine Institute. PVC is not acceptable upstream of the vacuum regulator. Vacuum piping for gaseous chlorine shall be polyethylene tubing or Schedule 80 PVC pipe. Rubber, Schedule 80 PVC, or polyethylene shall be used for chlorine solution piping and fittings.

G. Chloramination. Chloramination is an application of ammonia and chlorine at a proper mass ratio of chlorine to ammonia to produce a combined chlorine residual predominantly in form of monochloramine. Proper chlorine to ammonia ratio shall be maintained to prevent the formation of dichloramine and trichloramine which create taste and odor in drinking water.

1. Type. The chlorine system shall comply with the applicable requirements of §179.B. Ammonia systems shall supply either anhydrous ammonia, ammonium sulfate or aqua ammonia in compliance with the requirements of §§201-209 "Chemical Application" of this Part.

2. Capacity. The ammonia supply system shall have sufficient capacity to comply with minimum disinfectant residuals required in §355 and §357 of this Part. The equipment shall be of such design that it will operate accurately over the desired feeding range.

3. Standby Equipment. Standby equipment shall be available to replace/repair a critical unit. Spare parts shall be made available to replace parts subject to wear and breakage.

4. Injector/Diffuser. The ammonia injector/diffuser shall be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. If injectors are used, provisions for scale formation shall be considered.

a. Ammonia solution shall be fed through injectors/diffusers made of appropriate material installed per manufacturer's recommendations for even distribution of the solution. Materials containing copper shall not be used in contact with the ammonia.

5. Cross-Connection Protection. The aqua ammonia water supply piping shall be designed to prevent contamination of the treated water supply in accordance with the backflow prevention requirements set forth in §§344 and 346 of this Part.

6. Pipe Material. The pipes carrying anhydrous ammonia shall be black iron or stainless steel. Aqua (Aqueous) ammonia or ammonium sulfate piping shall be stainless steel, polyethylene tubing or schedule 80 PVC. Stainless steel, rubber, polyethylene tubing or PVC shall be used for aqueous ammonia solution piping and fittings.

H. Ozone

1. Design considerations include the following.

a. Ozonation systems are generally used for the purpose of disinfection, oxidation and microflocculation.

b. Bench scale studies shall be conducted to determine minimum and maximum ozone dosages for disinfection "CT" compliance and oxidation reactions. More involved pilot studies shall be conducted when necessary to document benefits and DBP precursor removal effectiveness. Consideration shall be given to multiple points of ozone addition. Pilot studies shall be conducted for all surface waters. Particularly sensitive measurements include gas flow rate, water flow rate, and ozone concentration.

c. Following the use of ozone, the application of a disinfectant which maintains a measurable residual will be

required in order to ensure bacteriologically safe water is carried throughout the distribution system.

d. Furthermore, because of the more sophisticated nature of the ozone process a higher degree of operator maintenance skills and training is required. The ability to obtain qualified operators must be evaluated in selection of the treatment process. The necessary operator training shall be provided prior to plant startup. An operation and maintenance manual shall be provided and maintained onsite while the ozone unit is in operation.

2. Feed Gas Preparation. General design criteria for feed gas preparation shall be as follows.

a. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. For high purity oxygen-feed systems, dryers typically are not required.

i. Air handling equipment on conventional low pressure air feed systems shall consist of an air compressor, water/air separator, refrigerant dryer, heat reactivated desiccant dryer, and particulate filters. Some "package" ozonation systems for small plants may work effectively operating at high pressure without the refrigerant dryer and with a "heat-less" desiccant dryer. The maximum dew point of -76°F (-60°C) will not be exceeded at any time.

b. Air compression. Design criteria for air compression shall be as follows.

i. Air compressors shall be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems.

ii. The air compressors shall have the capacity to simultaneously provide for maximum ozone demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity.

iii. Air feed for the compressor shall be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply.

iv. A compressed air after-cooler and/or entrainment separator with automatic drain shall be provided prior to the dryers to reduce the water vapor.

v. A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down.

c. Air drying. Design criteria for air drying shall be as follows.

i. Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) shall be provided at the end of the drying cycle.

ii. Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-activated desiccant dryers shall be used.

iii. A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) shall be provided for low pressure air preparation systems.

iv. For heat-activated desiccant dryers, the unit shall contain two desiccant filled towers complete with

pressure relief valves, two four-way valves and a heater. External type dryers shall have a cooler unit and blowers. The size of the unit shall be such that the specified dew point will be achieved during a minimum adsorption cycle time of 16 hours while operating at the maximum expected moisture loading conditions.

v. Multiple air dryers shall be provided so that the ozone generation is not interrupted in the event of dryer breakdown.

vi. Each dryer shall be capable of venting "dry" gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are "on-line".

d. Air filters. Design criteria for air filters shall be as follows.

i. Air filters shall be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators.

ii. The filter before the desiccant dryers shall be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer shall be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer.

e. Preparation piping. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system.

3. Ozone Generator. Design criteria for ozone generators shall be as follows.

a. Capacity. Design criteria for ozone generator capacity shall be as follows.

i. The production rating of the ozone generators shall be stated in pounds per day and kWhr per pound at a maximum cooling water temperature and maximum ozone concentration.

ii. The design shall ensure that the minimum concentration of ozone in the generator exit gas will not be less than 1 percent (by weight).

iii. Generators shall be sized to have sufficient reserve capacity so that the system does not operate at peak capacity for extended periods of time.

iv. The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then applicable data shall be used to determine production changes due to the temperature change of the supplied coolant. The design shall ensure that the generators can produce the required ozone at maximum coolant temperature.

v. Appropriate ozone generator backup equipment must be provided.

b. Electrical. The generators can be low, medium or high frequency type. Specifications shall require that the transformers, electronic circuitry and other electrical hardware be proven, high quality components designed for ozone service.

c. Cooling. Adequate cooling shall be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross

connection control shall be provided to prevent contamination of the potable water supply in accordance with the backflow prevention requirements in §§344 and 346 of this Part.

d. Materials. The ozone generator shell and tubes shall be constructed of Type 316L stainless steel.

4. Ozone Contactors. The selection or design of the contactor and method of ozone application depends on the purpose for which the ozone is being used.

a. Bubble Diffusers. Design criteria for bubble diffusers shall be as follows.

i. Where disinfection is the primary application a minimum of two contact chambers each equipped with baffles to prevent short circuiting and induce countercurrent flow shall be provided. Ozone shall be applied using porous-tube or dome diffusers.

ii. The minimum contact time shall be 10 minutes. A shorter contact time may be approved by state health officer.

iii. The contactor must be kept under negative pressure and sufficient ozone monitors shall be provided to protect worker safety. The secondary enclosure for the ozone contactor shall be open to the atmosphere.

iv. Large contact vessels made of reinforced concrete shall comply with ACI 350. All reinforcement bars shall be covered with a minimum of 2.0 inches of concrete. Smaller contact vessels can be made of stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level.

v. Where necessary a system shall be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the state health officer. If foaming is expected to be excessive, then a potable water spray system shall be placed in the contactor head space.

vi. All openings into the contactor for pipe connections, hatchways, etc. shall be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon.

vii. Multiple sampling ports shall be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations.

viii. A pressure/vacuum relief valve shall be provided in the contactor and piped to a location where there will be no damage to the destruction unit.

ix. The diffusion system shall work on a countercurrent basis such that the ozone is fed at the bottom of the vessel and water is fed at the top of the vessel.

x. The depth of water in bubble diffuser contactors shall be a minimum of 18 feet. The contactor should also have a minimum of 3 feet of freeboard to allow for foaming.

xi. All contactors shall have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment shall also be equipped with an access hatchway.

xii. Aeration diffusers shall be fully serviceable by either cleaning or replacement.

b. Other Contactors. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be

approved by the state health officer provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified.

5. Ozone Destruction Unit. Design criteria for ozone destruction unit shall be as follows.

a. A system for treating the final off-gas from each contactor shall be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units.

b. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume).

c. At least two units shall be provided which are each capable of handling the entire gas flow.

d. Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruct unit.

e. Catalysts shall be protected from froth, moisture and other impurities which may harm the catalyst.

f. The catalyst and heating elements shall be located where they can easily be reached for maintenance.

6. Piping Materials. Only low carbon 304L and 316L stainless steels shall be used for ozone service.

7. Joints and Connections. Design criteria for ozone joints and connections shall be as follows.

a. Connections on piping used for ozone service are to be welded where possible.

b. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon.

c. A positive closing plug or butterfly valve plus a leak-proof check valve shall be provided in the piping between the generator and the contactor to prevent moisture reaching the generator.

8. Instrumentation. Design criteria for ozone instrumentation shall be as follows.

a. Pressure gauges shall be provided at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors and at the inlet to the ozone destruction unit.

b. Electric power meters shall be provided for measuring the electric power supplied to the ozone generators. Each generator shall have a trip which shuts down the generator when the wattage exceeds a certain preset level.

c. Dew point monitors shall be provided for measuring the moisture of the feed gas from the desiccant dryers. Because it is critical to maintain the specified dew point, it is recommended that continuous recording charts be used for dew point monitoring which will allow for proper adjustment of the dryer cycle. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors shall be used.

d. Air flow meters shall be provided for measuring air flow from the desiccant dryers to each of other ozone generators, air flow to each contactor and purge air flow to the desiccant dryers.

e. Temperature gauges shall be provided for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas, and, if necessary, for

the inlet and outlet of the ozone power supply cooling water.

f. Water flow meters shall be installed to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply.

g. Ozone monitors shall be installed to measure zone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors shall also be provided for monitoring ozone residuals in the water. The number and location of ozone residual monitors shall be such that the amount of time that the water is in contact with the ozone residual can be determined.

h. A minimum of one ambient ozone monitor shall be installed in the vicinity of the contactor and a minimum of one shall be installed in the vicinity of the generator. Ozone monitors shall also be installed in any areas where ozone gas may accumulate.

9. Alarms. The following alarm/shutdown systems shall be considered at each installation:

a. dew point shutdown/alarm. This system should shut down the generator in the event the system dew point exceeds -76°F (-60°C);

b. ozone generator cooling water flow shutdown/alarm. This system should shut down the generator in the event that cooling water flows decrease to the point that generator damage could occur;

c. ozone power supply cooling water flow shutdown/alarm. This system should shut down the power supply in the event that cooling water flow decreases to the point that damage could occur to the power supply;

d. ozone generator cooling water temperature shutdown/alarm. This system should shutdown the generator if either the inlet or outlet cooling water exceeds a certain preset temperature;

e. ozone power supply cooling water temperature shutdown/alarm. This system should shutdown the power supply if either the inlet or outlet cooling water exceeds a certain preset temperature;

f. ozone generator inlet feed-gas temperature shutdown/alarm. This system should shutdown the generator if the feed-gas temperature is above a preset value;

g. ambient ozone concentration shutdown/alarm. The alarm should sound when the ozone level in the ambient air exceeds 0.1 ppm or a lower value chosen by the water supplier. Ozone generator shutdown should occur when ambient ozone levels exceed 0.3 ppm (or a lower value) in either the vicinity of the ozone generator or the contactor; and

h. ozone destruct temperature alarm. The alarm should sound when temperature exceeds a preset value.

10. Safety. Design criteria for ozone safety shall be as follows.

a. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed 0.1 ppm (by volume).

b. Emergency exhaust fans shall be provided in the rooms containing the ozone generators to remove ozone gas if leakage occurs.

c. A sign shall be posted indicating "No smoking, oxygen in use" at all entrances to the treatment plant. In

addition, no flammable or combustible materials shall be stored within the oxygen generator areas.

I. Chlorine Dioxide. When choosing chlorine dioxide, consideration must be given to formation of the regulated byproducts and chlorite.

1. Chlorine Dioxide Generators. Chlorine dioxide generation equipment shall be factory assembled pre-engineered units with a minimum efficiency of 95 percent. The excess free chlorine shall not exceed five percent of the theoretical stoichiometric concentration required. Generators designed or intended to operate outside of this criteria shall require justification and be considered on a case-by-case basis. Generator yield shall be defined as the ratio of chlorine dioxide generated to the theoretical stoichiometric maximum, as presented in EPA's Alternative Disinfectants and Oxidants Guidance Manual, Section 4.2.2 (EPA 815-R-99-014, April 1999).

a. Generators shall be designed, built and certified in compliance to NSF 61.

b. Bench scale testing shall be conducted to determine chlorine dioxide demand and decay kinetics for the specific water being treated in order to establish the correct design dose for required log inactivation compliance (if required), oxidation reactions, and chlorite generation.

c. An operation and maintenance manual (O&M) shall be provided. The O&M shall cover, at a minimum, operating instructions, identification and location of components, maintenance information and checklists; manufacturer's product information (including trouble shooting information, a parts list and parts order form, special tools, spare parts list, etc.) and a chlorine dioxide and chlorite residual monitoring action plan (RMAP). The RMAP shall identify actions to be taken by properly trained certified operators in the event that the chlorine dioxide residual or chlorite level meet or exceed specified maximum levels at specified testing locations (e.g., generator effluent, treatment units, point-of-entry).

d. Certified operators charged with handling and/or conducting chlorine dioxide and chlorite testing shall be properly trained on the production and testing equipment, the generator O&M manual, and the RMAP. Documentation of training shall be signed by the individual having responsible authority over the operators. Training documentation shall be provided to the OPH District Office and maintained on-site for review during sanitary surveys.

2. Feed and storage facilities. When chlorine gas and sodium chlorite are used feed and storage facilities shall comply with §209.A and §209.C of this Part, respectively. Sodium hypochlorite feed and storage facilities shall comply with §209.D of this Part. All chlorine dioxide feed and storage facilities shall comply with §179.I.5 and §179.I.6 of this Part.

3. Other design requirements shall include the following.

a. The design shall comply with all applicable portions of §179.B, §179.C, and §179.F of this Part.

b. Alarms shall be provided to indicate a lack of chemical (chlorine and sodium chlorite) or motive water flow.

4. Public Notification. Notification of a change in disinfection practices and the schedule for the changes shall

be made known to the public; particularly to hospitals, kidney dialysis facilities, and fish breeders, as chlorine dioxide and its byproducts may have similar effects as chloramines.

5. Chlorine Dioxide Feed System. Design criteria for chlorine dioxide feed system shall be as follows.

a. Use fiberglass reinforced vinyl ester plastic (FRP) or high density linear polyethylene (HDLPE) tanks with no insulation.

b. If centrifugal pumps are used, provide Teflon packing material. Pump motors must be totally enclosed, fan-cooled, equipped with permanently sealed bearings, and equipped with double mechanical seals or other means to prevent leakage.

c. Provide chlorinated PVC, vinyl ester or Teflon piping material. Do not use carbon steel or stainless steel piping systems.

d. Provide glass view ports for the reactor if it is not made of transparent material.

e. All chlorite solutions shall have concentrations less than 30 percent. Higher strength solutions are susceptible to crystallization and stratification.

6. Chlorine Dioxide Storage Requirements. Design criteria for chlorine dioxide storage shall be as follows.

a. Chlorine dioxide storage and operating area shall conform to the following.

i. The chlorine dioxide facility shall be physically located in a separate room from other water treatment plant operating areas.

ii. The chlorine dioxide area shall have a ventilation system separate from other operating areas.

iii. Provision shall be made to ventilate the chlorine dioxide facility area and maintain the ambient air chlorine dioxide concentrations below the Permissible Exposure Limit (PEL).

(a). The ventilating fan(s) take suction near the floor, as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets of any rooms or structures.

(b). Air inlets are provided near the ceiling.

(c). Air inlets and outlets shall be louvered.

(d). Separate switches for the fans are outside and near the entrance of the facility.

iv. There shall be observation windows through which the operating area can be observed from outside the room to ensure operator safety.

v. Manual switches to the light in the operating area shall be located outside the door to the room.

vi. An emergency shutoff control to shut flows to the generator shall be located outside the operating area.

vii. Gaseous chlorine feed to the chlorine dioxide generator shall enter the chlorine dioxide facility area through lines which can only feed to vacuum.

viii. There shall not be any open drains in the chlorine dioxide operating area.

J. Ultraviolet Light. Any Ultraviolet unit installed for treatment of cryptosporidium is required to meet the requirements of the USEPA's 2006 Ultraviolet Disinfection Guidance Manual.

K. Other disinfecting agents. Use of disinfecting agents other than those listed shall be approved by the state health officer prior to preparation of final plans and specifications.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§181. Softening

A. Lime or Lime-Soda Process. Design standards for rapid mix, flocculation and sedimentation are in Section 4.2. Additional consideration must be given to the following process elements.

1. Hydraulics. When split treatment is used, the bypass line should be sized to carry total plant flow, and an accurate means of measuring and splitting the flow shall be provided.

2. Rapid Mix. Rapid mix detention times should be instantaneous, but not longer than 30 seconds with adequate velocity gradients to keep the lime particles dispersed.

3. Stabilization. Equipment for stabilization of water softened by the lime or lime-soda process is required. (see §189 of this Part).

4. Sludge Collection. A means for sludge removal shall be provided in the sedimentation basin.

5. Sludge Disposal. Provisions shall be included for proper disposal of softening sludges. (see Subchapter F. §§257-275 of this Part).

B. Cation Exchange Process. Design criteria for cation exchange process shall be as follows.

1. Pre-treatment requirements. Iron, manganese, or a combination of the two, should not exceed 0.3 mg/L in the water as applied to the ion exchange resin. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter or more (see §187 of this Part). Waters having 5 units or more turbidity should not be applied directly to the cation exchange softener.

2. Design. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened shall be used unless manual regeneration is justified and is approved by the state health officer. A manual override shall be provided on all automatic controls.

3. Exchange Capacity. The design capacity shall be in accordance with the manufacturer's specifications for hardness removal.

4. Depth of Resin. The depth of the exchange resin shall not be less than three feet.

5. Flow Rates. The rate of softening shall not exceed seven gallons per minute per square foot of bed area and the backwash rate shall be between six and eight gallons per minute per square foot of bed area. Rate-of-flow controllers or the equivalent shall be installed for the above purposes.

6. Freeboard. The freeboard will depend upon the size and specific gravity of the resin and the direction of water flow. Adequate freeboard shall be provided to prevent loss of media during backwashing.

7. Underdrains and Supporting Gravel. The bottoms, strainer systems and support for the exchange resin shall conform to criteria provided for rapid rate gravity filters (see §177.A.6 and §177.A.7 of this Part).

8. Brine Distribution. Facilities should be included for even distribution of the brine over the entire surface of both upflow and downflow units.

9. Cross-Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage.

10. Bypass Piping and Equipment. Bypass shall must be provided around softening units to produce a blended water of desirable hardness. Totalizing meters shall be installed on the bypass line and on each softener unit. The bypass line shall have a shutoff valve and should have an automatic proportioning or regulating device.

11. Additional Limitations. When the applied water contains a chlorine residual, the cation exchange resin shall be a type that is not damaged by residual chlorine.

12. Sampling Taps. A means of collecting samples shall be provided for the collection of representative samples. If sample taps are provided, they shall be Smooth-nose type. The taps sampling locations shall be located to provide for sampling of the softener influent, effluent and blended water. The sampling locations for the blended water shall be at least 20 feet downstream from the point of blending.

13. Brine and Salt Storage Tanks. Design criteria for brine and salt storage tanks shall be as follows.

a. Salt dissolving or brine tanks and wet salt storage tanks shall be covered and must be corrosion-resistant.

b. The make-up water inlet shall be protected from back-siphonage.

c. Wet salt storage basins shall be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings shall be provided with raised curbs and watertight covers having overlapping edges. Each cover shall be hinged on one side, and shall have locking device.

d. Overflows, where provided, shall be protected with corrosion resistant screens and must terminate with either a turned down bend having a proper free fall discharge or a self-closing flap valve.

e. The salt shall be supported on graduated layers of gravel placed over a brine collection system.

14. Stabilization. Refer to §189 of this Part.

15. Waste Disposal. Suitable disposal shall be provided for brine waste (see Subchapter F. §§257-275 of this Part).

16. Construction Materials. Pipes and contact materials shall be resistant to the aggressiveness of salt. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine.

17. Housing. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§183. Anion Exchange Treatment

A. Pre-Treatment Requirements. Iron, manganese or a combination of the two, should not exceed 0.3 mg/L in the water as applied to the ion exchange resin. Pre-treatment is required when a combination of iron and manganese exceeds 0.5 mg/L.

B. Design criteria for anion exchange treatment is as follows.

1. Anion exchange units are typically of the pressure type, down flow design. Automatic regeneration based on volume of water treated shall be used unless manual

regeneration is justified and is approved by the state health officer. A manual override shall be provided on all automatic controls.

2. If a portion of the water is bypassed around the units and blended with treated water, the maximum blend ratio allowable must be determined based on the highest anticipated raw water contaminant level. If bypassing is provided, a totalizing meter and a proportioning or regulating device or flow regulating valves shall be provided on the bypass line.

C. Number of Units. At least two units shall be provided. The treatment capacity shall be capable of producing the water at the average daily flow at the maximum month of the plant at a level below the MCL of the contaminant being removed, with one exchange unit out of service.

D. Type of Media. The anion exchange media shall be of the type required to for the contaminant being removed.

E. Flow Rates. The treatment flow rate should not exceed 5 gallons per minute per square foot of bed area (20 cm/minute down flow rate). The backwash flow rate should be approximately 4.0 to 6.0 gallons per minute per square foot of bed area (16 to 24 cm/minute rise rate). The regeneration rate should be approximately 1.0 gallon per minute per square foot of bed area (4 cm/minute rise rate) with a fast rinse approximately equal to the service flow rate.

F. Freeboard. Adequate freeboard shall be provided to accommodate the backwash flow rate of the unit.

G. Miscellaneous Appurtenances. Miscellaneous appurtenances shall include the following.

1. The system shall be designed to include an adequate under drain and supporting gravel system and brine distribution equipment.

2. Sample taps, and brine and salt storage shall be as required in §181.B.12 and §181.B.13 of this Part.

H. Cross Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage.

I. Construction Materials. Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable materials. Steel and concrete shall be coated with a non-leaching protective coating which is compatible with salt and brine.

J. Housing. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment.

K. Preconditioning of the Media. Prior to startup of the equipment, the media shall be regenerated with no less than two bed volumes of water containing sodium chloride followed by an adequate rinse.

L. Waste Disposal. Suitable disposal must be provided for brine waste (see Subchapter F. §§257-275 of this Part).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§185. Aeration

A. Aeration processes generally are used in two types of treatment applications. One is the transfer of a gas to water (e.g., adding oxygen to assist in iron and/or manganese removal) and is called gas absorption, or aeration. The second is the removal of gas from water (reduce or remove objectionable amounts of carbon dioxide, hydrogen sulfide,

etc. or reduce the concentration of taste and odor-causing substances or removal of volatile organic compounds) and is classified as desorption or air stripping. The materials used in the construction of the aerator(s) shall meet NSF/ANSI 61 or be approved by the state health officer.

1. Natural Draft Aeration. Design shall provide:

- a. perforations in the distribution pan 3/16 to 1/2 inches in diameter, spaced 1 to 3 inches on centers to maintain a six inch water depth;
- b. for distribution of water uniformly over the top tray;
- c. discharge through a series of three or more trays with separation of trays not less than 12 inches;
- d. loading at a rate of 1 to 5 gallons per minute for each square foot of total tray area (2.5 - 12.5 m/hr);
- e. trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms;
- f. construction of durable material resistant to aggressiveness of the water and dissolved gases; and
- g. protection from insects by 24-mesh screen when used in applications where the water will not be subject to open vessels in downstream treatment processes.

2. Forced or Induced Draft Aeration. Devices shall be designed to:

- a. insure adequate counter current of air through the enclosed aerator column;
- b. exhaust air directly to the outside atmosphere;
- c. include a down-turned air outlet and inlet. Protection from insects by 24-mesh screen when used in applications where the water will not be subject to open vessels in downstream treatment processes;
- d. be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible;
- e. be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room;
- f. provide loading at a rate of 1 to 5 gallons per minute for each square foot of total tray area (2.5 - 12.5 m/hr);
- g. insure that the water outlet is adequately sealed to prevent unwarranted loss of air;
- h. when trays are used, discharge through a series of five or more trays with separation of trays not less than six inches or as approved by the state health officer;
- i. provide distribution of water uniformly over the top tray; and
- j. be of durable material resistant to the aggressiveness of the water and dissolved gases.

3. Spray Aeration. Design shall provide:

- a. a hydraulic head of between 5 - 25 feet;
- b. nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available;
- c. nozzle diameters in the range of 1 to 1.5 inches to minimize clogging; and
- d. an enclosed basin to contain the spray. Any openings for ventilation, etc. shall be protected from insects by 24-mesh screen when used in applications where the water will not be subject to open vessels in downstream treatment processes.

4. Pressure Aeration. Pressure aeration shall be used for oxidation and biological filtration purposes only. Filters

following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to:

- a. give thorough mixing of compressed air with water being treated; and
- b. provide screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants.

5. Packed Tower Aeration. Packed tower aeration (PTA) which is also known as air stripping involves passing water down through a column of packing material while pumping air counter-currently up through the packing. PTA is used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon.

a. Process design for PTA includes the following.

- i. The tower shall be designed to reduce contaminants to below the maximum contaminant level (MCL).
- ii. The ratio of the packing height to column diameter should be at least 7:1 for the pilot unit and at least 10:1 for the full scale tower. The type and size of the packing used in the full scale unit shall be the same as that used in the pilot work.
- iii. The minimum volumetric air to water ratio at peak water flow should be 25:1 and the maximum should be 80:1. Air to water ratios outside these ranges should not be used without prior approval from the state health officer.

iv. The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth

b. Materials of Construction. The tower shall be constructed of a material that is suitable for contact with the water being treated. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water.

c. Water Flow System. Design of the water flow system includes the following.

- i. Water should be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting.
- ii. A mist eliminator shall be provided above the water distributor system.
- iii. A side wiper redistribution ring shall be provided at least every 10 feet in order to prevent water channeling along the tower wall and short circuiting.
- iv. Sample taps shall be provided in the influent and effluent piping.
- v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer.
- vi. A blow-off line should be provided in the effluent piping to allow for discharge of water/chemicals used to clean the tower.
- vii. A means of measuring the water flow to each tower shall be provided.
- viii. An overflow line shall be provided which discharges 12 to 14 inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area.
- ix. Means shall be provided to prevent flooding of the air blower.

x. The water influent pipe should be supported separately from the tower's main structural support.

d. Air Flow System. Design of the air flow system includes the following.

i. The air inlet to the blower and the tower discharge vent shall be downturned and protected with a non-corrodible 24-mesh screen to prevent contamination from extraneous matter.

ii. The air inlet shall be in a protected location.

iii. A means of ensuring that air is being provided when water is being delivered to the air strippers shall be provided.

e. The following features shall be provided.

i. A sufficient number of access ports with a minimum diameter of 24 inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior.

ii. A method of cleaning the packing material when fouling may occur.

iii. An acceptable alternative treatment shall be available during periods of maintenance and operation interruptions when used for treatment of a primary contaminant. No bypass shall be provided unless specifically approved by the state health officer.

iv. Disinfection application points ahead of the tower to control biological growth.

v. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights.

6. Other Methods of Aeration. Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes shall be designed to meet the particular needs of the water to be treated and are subject to the approval of the state health officer.

7. Protection of Aerators. All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator.

8. Bypass. A bypass should be provided for all aeration units except those installed to comply with maximum contaminant levels.

9. Redundancy. Redundant equipment shall be provided for units installed to comply with the Safe Drinking Water Act primary contaminants, unless otherwise approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§187. Iron and Manganese Control

A. Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the state health officer. It may be necessary to operate a pilot plant in order to gather

all information applicable to the design. Consideration should be given to adjusting pH of the raw water to optimize the chemical reaction.

1. Design elements for removal by oxidation, detention and filtration are as follows.

a. Oxidation. Oxidation may be by aeration, as indicated in §185 of this Part, or by chemical oxidation with chlorine, potassium permanganate, sodium permanganate, ozone or chlorine dioxide.

b. Reaction. A detention time shall be provided following aeration to insure that the oxidation reactions are as complete as possible. The reaction tank/detention basin shall be designed to prevent short circuiting. If a reaction tank/detention basin is provided, it shall be provided with an overflow, vent and access hatch in accordance with §225.I, §225.J, and §225.K of this Part.

c. Sedimentation. Sedimentation basins shall be provided when treating water with high iron and/or manganese (≥ 7 *SMCL) content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made.

d. Filtration. Filters shall be provided and shall conform to §177 of this Part.

2. For removal by the lime-soda softening process, see §181.A of this Part.

3. Removal by manganese coated media filtration. This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter.

a. Provisions should be made to apply the permanganate as far ahead of the filter as practical and to a point immediately before the filter.

c. An anthracite media cap of at least six inches or more as required by the state health officer shall be provided over manganese coated media.

d. Normal filtration rate shall be based on the manufacturer's performance studies.

e. Sample taps shall be provided:

i. for the raw water;

ii. immediately ahead of filtration; and

iii. at the filter effluent.

4. Removal by Ion Exchange. This process of iron and manganese removal should not be used for water containing more than 0.3 milligrams per liter of iron, manganese or combination thereof. This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants.

5. Sequestration by Polyphosphates. The total phosphate applied shall not exceed 10 mg/L as phosphate (PO₄). Possible adverse effects on corrosion must be addressed when phosphate addition is proposed for iron sequestering.

a. Feeding equipment shall conform to the requirements of Subchapter A "Chemical Application" §201-§209 of this Part.

b. Polyphosphates shall not be applied ahead of iron and manganese removal treatment.

c. The phosphate feed point shall be located at least five feet ahead of the oxidant feed point.

6. Sequestration by Sodium Silicates. Sodium silicate sequestration of iron and manganese is appropriate only for groundwater supplies prior to air contact. On-site pilot tests

are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition. Injection of sodium silicate more than 15 seconds after oxidation may cause detectable loss of chemical efficiency. Dilution of feed solutions much below five per cent silica as SiO₂ should also be avoided for the same reason. Sodium silicate treatment may be less effective for sequestering manganese than for iron.

a. Sodium silicate addition is applicable to waters containing up to 2 mg/L of iron, manganese or combination thereof.

b. Chlorine residuals shall be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron.

c. The amount of silicate added shall be limited to 20 mg/L as SiO₂, but the amount of added and naturally occurring silicate shall not exceed 60 mg/L as SiO₂.

d. Feeding equipment shall conform to the requirements of Subchapter A "Chemical Application" §201-§209 of this Part.

e. Sodium silicate shall not be applied ahead of iron or manganese removal treatment.

7. Sampling taps. Smooth-nosed sampling taps shall be provided for control purposes. A means of collecting samples shall be provided for each raw water source, each treatment unit influent and each treatment unit effluent.

8. Testing equipment shall be provided for all plants. Where polyphosphate sequestration is practiced, appropriate phosphate testing equipment shall be provided that meets the requirements of §137.G of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§189. Stabilization

A. Carbon Dioxide Addition. Where liquid carbon dioxide is used, adequate precautions shall be taken to prevent carbon dioxide from entering the plant from the recarbonation process.

1. Consideration shall be given to the installation of a carbon dioxide alarm system with light and audio warning, especially in low areas.

2. Recarbonation tanks shall be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety.

a. Provisions shall be made for draining the recarbonation basin and removing sludge.

B. Acid Addition. Design elements for acid addition include the following.

1. Feed equipment shall conform to Subchapter A "Chemical Application" §201-§209 of this Part.

2. Adequate precautions shall be taken for operator safety, such as not adding water to the concentrated acid. (see §207 and §209 of this Part).

C. Phosphates. The feeding of phosphates may be applicable for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening.

1. Feed equipment shall conform to Subchapter A "Chemical Application" §201-§209 of this Part.

2. Stock phosphate solution shall be kept covered and disinfected by carrying approximately 10 mg/L free chlorine residual unless the phosphate is not able to support bacterial growth. Phosphate solutions having a pH of 2.0 or less may also be exempted from this requirement by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§191. Taste and Odor Control

A. Powdered Activated Carbon. Design elements for powdered activated carbon (PAC) include the following.

1. Continuous agitation or resuspension equipment shall be provided to keep the carbon from depositing in the slurry storage tank.

2. Provision shall be made for adequate dust control.

3. The required rate of feed of carbon in a water treatment plant depends upon the tastes and/or odors involved, but provision should be made for adding from 0.1 milligrams per liter to at least 40 milligrams per liter.

4. Powdered activated carbon shall be handled as a potentially combustible material.

B. Granular Activated Carbon. Replacement of anthracite with granular activated carbon (GAC) may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms. Demonstration studies may be required by the state health officer. See §177.A.6.iv of this Part for application within filters.

C. Copper Sulfate and Other Copper Compounds. Continuous or periodic treatment of water with copper compounds to kill algae or other growths shall be controlled to prevent copper in excess of 1.0 milligrams per liter as copper in the plant effluent or distribution system. Care shall be taken to assure an even distribution of the chemical within the treatment area.

D. For aeration, see §185 of this Part.

E. Ozone. Ozonation can be used as a means of taste and odor control. Adequate contact time shall be provided to complete the chemical reactions involved. Ozone is generally more desirable for treating water with high threshold odors. (See §179.H of this Part)

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Chapter 2. Public Water System Construction, Operation and Maintenance

Subchapter A. Chemical Application

§201. General Requirements

A. General. Chemicals applied to treat potable drinking water shall meet the requirements of NSF/ANSI Standard 60 as certified by an ANSI-accredited testing agency.

B. Plans and Specifications. Plans and specifications shall be submitted for review and approval, as provided for in Chapter 1, Subchapter B of this Part, and shall include:

1. descriptions of feed equipment, including maximum and minimum feed ranges;

2. location of feeders, piping layout and points of application;

3. storage and handling facilities;
4. operating and control procedures including proposed application rates;
5. description of testing equipment; and
6. description of system including all tanks with capacities, (with drains, overflows, and vents), feeders, transfer pumps, connecting piping, valves, points of application, backflow prevention devices, air gaps, secondary containment, and safety eye washes and showers.

C. Chemical Application. Chemicals shall be applied to the water at such points and by such means as to:

1. assure maximum efficiency of treatment;
2. assure maximum safety to consumer;
3. provide maximum safety to operators;
4. assure satisfactory mixing of the chemicals with the water;
5. provide maximum flexibility of operation through various points of application, when appropriate; and
6. prevent backflow or back-siphonage between multiple points of feed through common manifolds.

D. General equipment design shall be such that:

1. feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed;
2. chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution;
3. corrosive chemicals are introduced in such a manner as to minimize potential for corrosion;
4. chemicals that are incompatible are not stored or handled together;
5. all chemicals are conducted from the feeder to the point of application in separate conduits;
6. chemical feeders are as near as practical to the feed point;
7. chemical feeders and pumps shall operate at no lower than 20 per cent of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted then the pump shall operate at no lower than 10 percent of the rated maximum; and
8. gravity may be used where practical.

E. For each chemical the information submitted shall include:

1. documentation that the chemical is certified to NSF/ANSI Standard 60;
2. specifications for the chemical to be used;
3. purpose of the chemical;
4. proposed minimum non-zero, average and maximum dosages, solution strength or purity (as applicable), and specific gravity or bulk density;
5. method for independent calculation of amount fed daily; and
6. safety data sheet (SDS).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§203. Feed Equipment

A. Feeder Redundancy. Where a chemical feed and booster pump is necessary for the protection of the supply,

such as chlorination, coagulation or other essential processes, a standby unit or a combination of units of sufficient size to meet capacity shall be provided to replace the largest unit when out of service.

1. A separate feeder shall be used for each chemical applied.

2. Spare parts shall be available on site for each type of feeder and chemical booster pump to replace parts which are subject to wear and damage.

B. Control. Feeders may be manually or automatically controlled.

1. Automatic controls shall be designed so as to allow override by manual controls.

2. Chemical feed rates shall be proportional to the flow stream being dosed.

3. A means to measure the flow stream being dosed shall be provided in order to determine chemical feed rates.

4. Provisions shall be made for measuring the quantities of chemicals used.

5. Weighing scales:

a. shall be provided for weighing cylinders at all plants utilizing chlorine gas;

b. shall be required for fluoride solution fed from supply drums or carboys;

c. should be provided for volumetric dry chemical feeders;

d. shall be capable of providing reasonable precision in relation to average daily dose; and

e. shall not be required for chlorine gas cylinders when used as a backup or standby source of chlorine gas.

6. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter.

C. Dry Chemical Feeders. Dry chemical feeders shall:

1. measure chemicals volumetrically (see §203.B.5.c of this Part) or gravimetrically;

2. provide adequate solution/slurry water and agitation of the chemical at the point of placing in solution/slurry; and

3. completely enclose chemicals to reduce emission of dust to the operating room.

D. Positive Displacement Solution Feed Pumps. Positive displacement type solution feed pumps should be used to feed liquid chemicals.

1. Pumps shall be capable of operating at the required maximum rate against the maximum head conditions found at the point of injection.

2. Equipment utilized to readily measure feed rates in the pumped liquid shall be designed to handle the liquid being measured and shall be provided.

3. A pressure relief valve should be provided on the pump discharge line.

E. Siphon Control for Liquid Chemical Feeders. Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into the water supply, by:

1. assuring discharge at a point of positive pressure;

2. providing vacuum relief;

3. providing a suitable air gap, or anti-siphon device;

or

4. providing other suitable means or combinations as necessary.

F. Cross-connection control shall be provided to assure that:

1. the service water lines discharging to liquid storage tanks shall be properly protected from backflow as required by the state health officer;

2. chemical solutions or slurries cannot be siphoned through liquid chemical feeders into the water supply as required in §203.E of this Part;

3. no direct connection exists between any sewer and a drain or overflow from the liquid chemical feeder, liquid storage chamber or tank by providing that all drains terminate at least six inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle;

4. in the absence of other cross connection control measures, separate feeders shall be provided for chemical feed systems that have feed points at both unfiltered and filtered water locations such that all unfiltered water feed points are fed from one feeder, and that all filtered water feed points are fed from another feeder.

G. Location. Chemical feed equipment:

1. shall be readily accessible for servicing, repair, and observation of operation;

2. should be located in a separate room where hazards and dust problems may exist; and

3. should be conveniently located near points of application to minimize length of feed lines.

H. In-plant water supply shall be:

1. ample in quantity and adequate in pressure;

2. provided with means for measurement when preparing specific solution concentrations by dilution;

3. properly treated for hardness, when necessary;

4. properly protected against backflow; and

5. obtained from the finished water supply, or from a location sufficiently downstream of any chemical feed point to assure adequate mixing.

I. Supply and Storage of Chemicals. A minimum of 10 days of chemical supply shall be on site at all times that will allow the facility to satisfy a maximum average day demand for all ten days. Additional supply of chemicals that will not degrade is recommended. Chemicals for which the EPA has established a threshold quantity for risk management plan purposes need not be stored on site provided the system has a plan in place for effective timely deliveries of such chemicals.

1. Storage space shall:

a. be convenient and provide for efficient handling of chemicals;

b. have dry storage conditions; and

c. provide a minimum storage volume of 1.5 truck loads where purchase can only be made by truck load lots.

2. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Offloading areas shall be clearly labeled to prevent accidental cross-contamination.

3. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit.

4. Liquid chemical storage tanks shall:

a. have a means to readily determine the volume of liquid retained in the storage tank; and,

b. have an overflow and a receiving basin capable of receiving accidental spills or overflows without uncontrolled discharge; a common receiving basin may be provided for each group of compatible chemicals, which provides sufficient containment volume to prevent accidental discharge in the event of failure of the largest tank.

J. Bulk Liquid Storage Tanks. Bulk liquid storage tanks shall comply with the following requirements:

1. A means which is consistent with the nature of the chemical stored shall be provided in a liquid storage tank to maintain a uniform chemical strength. Continuous agitation shall be provided to maintain slurries in suspension.

2. A means to assure continuity of chemicals to treat the water to comply with federal primary drinking water standards and state drinking water regulations shall be provided while servicing a liquid storage tank.

3. A means shall be provided to readily measure the liquid level in the liquid storage tank.

4. Liquid storage tanks shall have a lid. Large liquid storage tanks with access openings shall have such openings curbed and fitted with overhanging covers or, bolted and gasketed manways.

5. Subsurface locations for liquid storage tanks shall:

a. be free from sources of possible contamination; and

b. assure positive drainage away from the area for ground waters, accumulated water, chemical spills and overflows.

6. Overflow pipes, when provided, shall:

a. be turned downward, with the end screened;

b. have a free fall discharge; and

c. be located where noticeable.

7. Liquid storage tanks must be vented, but not through vents in common with other chemicals or day tanks. Acid storage tanks shall be vented to the outside atmosphere.

8. Each liquid storage tank shall be provided with a method to be drained.

9. Each liquid storage tank shall be protected against contamination by cross-connections.

10. Liquid storage tanks shall be located and secondary containment provided so that chemicals from equipment failure, spillage or accidental drainage shall not enter the water in conduits, treatment or storage basins. Secondary containment volumes shall be able to hold the volume of the largest storage tank. Piping shall be designed to minimize or contain chemical spills in the event of pipe ruptures.

K. Overfeed Protection. Overfeed protection shall be provided and comply with the following requirements.

1. A LDH-approved overfeed process control and/or procedure shall be provided for liquid chemical feeds. The process control and/or procedure must be in addition to the requirements of §203.E (siphon control) of this Part. When day tanks are used for overfeed protection, day tanks shall meet requirements of §203.K.3 of this Part.

2. Day tanks shall be provided when bulk storage of fluoride is used.

3. When day tanks are used, all day tanks shall meet all of the following requirements and requirements of §203.J of this Part, except that shipping containers do not require

§203.J.6 (overflow pipes) and §203.J.8. (drain method) and day tanks do not require secondary containment.

a. Day tanks should hold no more than a 30 hour supply.

b. Day tanks shall be scale-mounted, or have a calibrated gauge painted or mounted on the side if liquid level can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod may be used.

c. Except for fluorosilicic acid, hand pumps may be provided for transfer from a shipping container. A tip rack may be used to permit withdrawal into a bucket from a spigot.

d. A means which is consistent with the nature of the chemical solution shall be provided to maintain uniform chemical strength in a day tank. Continuous agitation shall be provided to maintain chemical slurries in suspension.

e. Tanks and tank refilling line entry points shall be clearly labeled with the name of the chemical contained.

f. Filling of day tanks shall not be automated, unless redundancy of controls is provided.

g. Where motor-driven transfer pumps are provided, an automated means to prevent an overflow shall be provided.

L. Feed Lines. Feed lines:

1. should be as short as possible;
2. should be of durable, corrosion-resistant material;
3. be easily accessible throughout the entire length;
4. be readily cleanable;
5. shall be protected from freezing;
6. should slope upward from the chemical source to the feeder when conveying gases;
7. shall be designed consistent with scale-forming or solids depositing properties of the water, chemical, solution or mixtures conveyed; and
8. should be color coded and labeled.

M. Handling. Carts, elevators and other appropriate means shall be provided for lifting chemical containers to minimize excessive lifting by operators.

1. Provisions shall be made for disposing of empty bags, drums, carboys, or barrels by an approved procedure which will minimize exposure to dusts.

2. Provisions shall be made for the proper transfer of dry chemicals from shipping containers to storage bins or hoppers, in such a way as to minimize the quantity of dust which may enter the room in which the equipment is installed. Control should be provided by use of:

- a. vacuum pneumatic equipment or closed conveyor systems;
- b. facilities for emptying shipping containers in special enclosures, and/or;
- c. exhaust fans and dust filters.

3. Provision shall be made for measuring quantities of chemicals used to prepare feed solutions.

N. Housing. Housing of feed equipment shall comply with the following.

1. Floor surfaces shall be smooth and impervious, slip-proof and well drained.

2. Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§205. Chemicals

A. Chemical shipping containers shall be fully labeled to include:

1. chemical name, purity and concentration; and
2. supplier name and address.

B. Chemicals shall meet the appropriate ANSI/AWWA standards and/or be certified to NSF/ANSI Standard 60.

C. The state health officer may require assay of chemicals.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§207. Operator Safety

A. Special provisions shall be made for ventilation of chlorine feed and storage rooms.

B. Respiratory protection equipment shall:

1. meet the requirements of the National Institute for Occupational Safety and Health (NIOSH);
2. be available where chlorine gas is handled;
3. shall be stored at a convenient heated location, but not be stored inside any room where chlorine is used or stored; and
4. if compressed air is used shall have at least a 30 minute capacity.

C. Leak detection for chlorine gas. A bottle of concentrated ammonium hydroxide (56 per cent ammonia solution) shall be available for chlorine leak detection; where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. Where pressurized chlorine gas is present, continuous chlorine leak detection equipment is required and shall be equipped with both an audible alarm and a warning light.

D. Other protective equipment shall be provided as follows.

1. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing and goggles or face mask shall be provided for each operator on duty.

2. An appropriate deluge shower and eye washing device shall be installed where strong acids and alkalis are used or stored.

3. Other protective equipment should be provided as necessary.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§209. Specific Chemicals

A. Chlorine Gas. Chlorinators should be housed in a room separate from but adjacent to the chlorine storage room.

1. Chlorinator rooms should be heated to 60°F, and be protected from excessive heat. Cylinders and gas lines should be protected from temperatures above that of the feed equipment.

2. Both the chlorine gas feed and storage rooms should be located in a corner of the building on the prevailing downwind side of the building and be away from entrances, windows, louvers, walkways, etc.

3. If chlorine gas feed and storage is enclosed, the chlorine gas shall be separated from other operating areas. Both the feed and storage rooms shall be constructed so as to meet the following requirements:

a. a shatter resistant inspection window shall be installed in an interior wall unless secondary containment is provided for chlorine gas;

b. all openings between the rooms and the remainder of the plant shall be sealed;

c. doors shall be equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior;

d. a ventilating fan with a capacity to complete one air change per minute when the room is occupied; where this is not appropriate due to the size of the room, a lesser rate may be considered;

e. the ventilating fan shall take suction near the floor and as great a distance as is practical from the door and air inlet, with the point of discharge located so as not to contaminate air inlets to any rooms or structures;

f. air inlets with corrosion resistant louvers shall be installed near the ceiling;

g. air intake and exhaust louvers shall facilitate airtight closure;

h. separate switches for the ventilating fan and for the lights shall be located outside and at the inspection window. Outside switches must be protected from vandalism. A signal light indicating ventilating fan operation shall be provided at each entrance when the fan can be controlled from more than one point;

i. vents from chlorinator and storage areas must be screened and discharge to the outside atmosphere, above grade;

j. floor drains are discouraged. Where provided, the floor drains must discharge to the outside of the building and not be connected to other internal or external drainage systems; and

k. provisions should be made to chemically neutralize chlorine gas where feed and/or storage is located near residential or developed areas in the event of any measured chlorine release. The equipment must be sized to treat the entire contents of the largest storage container on site.

4. Chlorine gas not stored in a room shall be:

a. protected from direct sunlight and windblown debris;

b. shielded from public view;

c. located inside a fenced and secure area;

d. secured in a fixed position, and

e. all chlorine pipelines are under vacuum with no pressure chlorine lines allowed.

5. Chlorine gas feed systems shall be of the vacuum type and include the following.

a. vacuum regulators on all individual cylinders in service; and

b. service water to injectors/eductors shall be of adequate supply and pressure to operate feed equipment

within the needed chlorine dosage range for the proposed system.

6. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room.

7. Full and empty cylinders of chlorine gas shall meet the following requirements:

a. housed only in the chlorine storage room or designated area conforming with §209.A.4 of this Part;

b. isolated from operating areas;

c. restrained in position;

d. stored in locked and/or secure rooms separate from ammonia storage; and

e. protected from direct sunlight or exposure to excessive heat.

B. Acids and Caustics. Acids and caustics shall:

1. be kept in closed corrosion-resistant shipping containers or bulk liquid storage tanks; and

2. not be handled in open vessels, but should be pumped in undiluted form to and from bulk liquid storage tanks and covered day tanks or from shipping containers through suitable hoses, to the point of treatment.

C. Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the state health officer prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its powerful oxidizing nature.

1. Storage. The storage of sodium chlorite shall comply with the following.

a. Sodium chlorite shall be stored by itself in a separate room and preferably shall be stored in an outside building detached from the water treatment facility. It shall be stored away from organic materials because many materials will catch fire and burn violently when in contact with sodium chlorite.

b. The storage structures shall be constructed of noncombustible materials.

c. If the storage structure shall be located in an area where a fire may occur, water shall be available to keep the sodium chlorite area cool enough to prevent heat induced explosive decomposition of the sodium chlorite.

2. Handling. The criteria for handling of sodium chlorite is as follows.

a. Care should be taken to prevent spillage.

b. An emergency plan of operation should be available for the clean-up of any spillage.

c. Storage drums shall be thoroughly flushed to an acceptable drain prior to recycling or disposal.

3. Feeders. Feeders shall comply with the following requirements.

a. Positive displacement feeders shall be provided.

b. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer.

c. Chemical feeders may be installed in chlorine rooms if sufficient space is provided or in separate rooms meeting the requirements of §209.A.3 of this Part.

d. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure.

e. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line.

D. Sodium Hypochlorite. Sodium hypochlorite storage and handling procedures should be arranged to minimize the slow natural decomposition process of sodium hypochlorite either by contamination or by exposure to more extreme storage conditions. In addition, feed rates should be regularly adjusted to compensate for this progressive loss in chlorine content.

1. Storage. The storage of sodium hypochlorite shall comply with the following.

a. Sodium hypochlorite shall be stored in the original shipping containers or in sodium hypochlorite compatible bulk liquid storage tanks.

b. Storage containers or tanks shall be located out of the sunlight in a cool area and shall be vented to the outside of the building when enclosed.

c. Wherever reasonably feasible, stored sodium hypochlorite shall be pumped undiluted to the point of addition. Where dilution is utilized, deionized or softened water should be used.

d. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges.

e. Reusable sodium hypochlorite storage containers shall be reserved for use with sodium hypochlorite only and shall not be exposed to contamination.

2. Feeders. Sodium hypochlorite feeders shall comply with the following.

a. Positive displacement pumps with sodium hypochlorite compatible materials for wetted surfaces shall be used.

b. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads as required.

c. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles.

d. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be provided.

e. Injectors shall be made removable for regular cleaning where hard water is to be treated.

E. Ammonia. Ammonia for chloramine formation may be added to water either as a water solution of ammonium sulfate, or as aqua ammonia, or as anhydrous ammonia (purified 100 percent ammonia in liquid or gaseous form). Special provisions required for each form of ammonia are listed below.

1. Ammonium Sulfate. A water solution is made by addition of ammonium sulfate solid to water with agitation. The tank and dosing equipment contact surfaces should be made of corrosion resistant non-metallic materials. Provision should be made for removal of the agitator after dissolving the solid. The tank should be fitted with an air-tight lid and vented outdoors. The application point should be at the center of treated water flow at a location where there is high velocity movement.

2. Aqua Ammonia (ammonium hydroxide). When the exception criteria in §209.E.2.i of this Part is not met, Aqua ammonia feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall conform to §209.A.3 of this Part and to the following:

a. corrosion resistant, closed, pressurized tank shall be used for bulk liquid storage and day tanks, vented through inert liquid traps to a high point outside;

b. an incompatible connector or lockout provisions shall be provided to prevent accidental addition of other chemicals to the bulk liquid storage tank(s);

c. the bulk liquid storage tank(s) should be designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. Such provisions shall include either:

i. refrigeration or other means of external cooling, and/or;

ii. dilution and mixing of the contents with water without opening the bulk liquid storage tank.

d. An exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point.

e. The aqua ammonia feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank.

f. The application point should be placed in a region of rapid, preferably turbulent, water flow.

g. Provisions should be made for easy access for removal of calcium scale deposits from the injector.

h. Provision of a modestly-sized scrubber capable of handling occasional minor emissions should be considered.

i. An exception to the requirement for enclosing aqua ammonia shall be made when aqua ammonia is stored in a manner which satisfies all of the following criteria:

i. protection is provided from direct sunlight and windblown debris;

ii. shielded from public view;

iii. located inside a fenced and secured area, and

iv. secured in a fixed position.

3. Anhydrous Ammonia. Anhydrous ammonia is readily available as a pure liquefied gas under moderate pressure in cylinders or as a cryogenic liquid boiling at -15° Celsius at atmospheric pressure. The liquid causes severe burns on skin contact.

a. When the exception criteria in §209.E.3.i of this Part is not met, anhydrous ammonia storage and feed systems (including heaters where required) shall be enclosed and separated from other works areas and constructed of corrosion resistant materials. Bulk anhydrous ammonia storage tanks holding more than 500 gallons shall not be located in an enclosed area.

b. An emergency air exhaust system, as in §209.A.3 of this Part but with an elevated intake, shall be provided in the ammonia storage room.

c. Leak detection systems shall be provided in all areas through which ammonia is piped.

d. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks.

e. Carrier water systems of soft or pre-softened water may be used to transport ammonia to the application point and to assist in mixing.

f. The ammonia injector should use a vacuum eductor or should consist of a perforated tube fitted with a

closely fitting flexible rubber tubing seal punctured with a number of small slits to delay fouling by lime or other scale deposits.

g. Provision should be made for the periodic removal of lime or other scale deposits from injectors and carrier piping.

h. Consideration should be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest anhydrous ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks.

i. Anhydrous ammonia storage not enclosed in a room shall be stored per the following criteria:

i. protection is provided from direct sunlight and windblown debris;

ii. shielded from public view;

iii. located inside a fenced and secured area, and

iv. secured in a fixed position.

F. Potassium Permanganate. Design criteria for potassium permanganate is as follows.

1. A source of heated water should be available for dissolving potassium permanganate, and

2. mechanical mixers shall be provided.

G. Fluoride. Sodium fluoride, sodium silicofluoride and fluorosilicic acid shall conform to the applicable AWWA Standards and be certified to NSF/ANSI Standard 60. Other fluoride compounds which may be available shall be approved by the state health officer.

1. Storage. Design criteria for storage of fluoride compounds is as follows.

a. Fluoride chemicals should be isolated from other chemicals to prevent contamination.

b. Compounds shall be stored in covered or unopened shipping containers and should be stored inside a building.

c. Unsealed storage units for fluorosilicic acid should be vented to the atmosphere at a point outside any building. The vents to atmosphere shall be provided with a corrosion resistant 24 mesh screen.

d. Bags, fiber drums and steel drums should be stored on pallets.

2. Chemical Feed Equipment and Methods. Design criteria for chemical feed and methods for fluoride compounds is as follows.

a. At least two diaphragm operated anti-siphon devices shall be provided on all fluoride saturator or fluorosilicic acid feed systems.

i. one diaphragm operated anti-siphon device shall be located on the discharge side of the feed pump; and

ii. a second diaphragm operated anti-siphon device shall be located at the point of application unless a suitable air gap is provided.

b. A physical break box may be required in high hazard situations where the application point is substantially lower than the metering pump. In this situation, either a dual head feed pump or two separate pumps are required and the anti-siphon device at the discharge side of the pump may be omitted.

c. Scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five percent of the average daily change in reading shall be provided for chemical feeds.

d. Feeders shall be accurate to within five percent of any desired feed rate.

e. Fluoride compound shall not be added before lime-soda softening or ion exchange softening.

f. The point of application if into a horizontal pipe, shall be in the lower half of the pipe, preferably at a 45 degree angle from the bottom of the pipe and protrude into the pipe one third of the pipe diameter.

g. Except for constant flow systems, a device to measure the flow of water to be treated is required.

h. Water used for sodium fluoride dissolution shall be softened if hardness exceeds 75 mg/L as calcium carbonate.

i. Fluoride solutions shall be injected at a point of continuous positive pressure unless a suitable air gap is provided.

j. The electrical outlet used for the fluoride feed pump should have a nonstandard receptacle and shall be interconnected with the well or service pump, or have flow pacing as allowed by the state health officer,

k. Saturators should be of the upflow type and be provided with a meter and backflow protection on the makeup water line.

1. Consideration shall be given to providing a separate room for fluorosilicic acid storage and feed.

3. Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches, break boxes, or other devices.

4. Personal protective equipment as outlined in §207.D of this Part shall be provided for operators handling fluoride compounds. Deluge showers and eye wash devices shall be provided at all fluorosilicic acid installations.

5. Dust control requirements are as follows.

a. Provision shall be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which places the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building.

b. Provision shall be made for disposing of empty bags, drums or barrels in a manner which will minimize exposure to fluoride dusts. A floor drain should be provided to facilitate the washing of floors.

6. Equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the state health officer.

H. Activated carbon is a potentially combustible material requiring isolated storage.

1. Storage facilities should be:

a. fire proof; and

b. equipped with explosion-proof electrical outlets, lights and motors in areas of dry handling.

2. Bags of powdered carbon should be stacked in rows with aisles between in such a manner that each bag is accessible for removal in case of fire.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter B. Pumping Facilities

§211. General

A. Pumping facilities shall be designed to maintain the sanitary quality of pumped water.

B. Subsurface pits or pump rooms and inaccessible installations should be avoided.

C. No pumping station shall be subject to flooding, unless critical components are protected from damage or contamination by inundation.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§213. Site Protection

A. The station's critical components that could be damaged or contaminated by inundation shall be:

1. elevated to a minimum of two foot above the 100-year flood elevation, or protected to such elevations including the use of a levee system;

2. readily accessible at all times unless permitted to be out of service for the period of inaccessibility;

3. graded around the station so as to lead surface drainage away from the station;

4. protected to prevent vandalism and entrance by animals or unauthorized persons. The pump station should be located within a secure area such as a locked building or fenced area;

5. labeled such that the pumps and valves in the station are tagged to correspond to the maintenance record and for proper identification.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§215. Pumping Stations

A. Both raw and finished water pumping stations shall:

1. be of durable construction, fire and weather resistant;

2. have any underground structure waterproofed

3. have all floors slope to a suitable drain in such a manner that the quality of the potable water will not be endangered;

4. provide a suitable outlet for drainage without allowing discharge across the floor, including pumping glands, vacuum air relief valves, etc.

B. A suction well is a component(s) designed to facilitate the suction of water by way of pump excluding intake structures, ground storage tanks and clearwells. Suction wells shall:

1. be watertight;

2. have floors sloped to permit removal of water and settled solids;

3. be covered or otherwise protected against contamination; and

4. have two pumping compartments or other means to allow the suction well to be taken out of service for inspection maintenance or repair.

C. Equipment servicing pump stations shall:

1. provide adequate facilities or other means for servicing or removal of pumps, motors or other heavy equipment; and

2. have openings in floors, roofs or wherever else needed for removal of heavy or bulky equipment.

D. Stairways or ladders shall:

1. be provided between all floors, and in dry pits or compartments which must be entered; and

2. conform to the applicable requirements of the state and local building codes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§217. Pumps

A. Where necessary to meet minimum system requirements such as pressure, at least two pumping units shall be provided. With any pump out of service, the remaining pump or pumps shall be capable of providing the maximum design capacity of that station.

B. The pumping units shall:

1. have ample capacity to supply the peak demand against the required distribution system pressure without dangerous overloading;

2. be driven by prime movers able to meet the maximum horsepower condition of the pumps;

3. be provided with readily available spare parts and tools;

4. be served by control equipment that has proper heater and overload protection for air temperature encountered.

C. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the screened intake shall draw clean air from a point at least 10 feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the state health officer. Vacuum priming may be used.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§219. Booster Pumps

A. Booster pumps shall be located or controlled so that:

1. they will not produce negative pressure in their suction lines;

2. pumps taking suction from storage tanks shall be provided adequate net positive suction head;

3. pumps taking suction from ground storage tanks shall be equipped with automatic shutoffs or low pressure controllers as recommended by the pump manufacturer;

4. automatic or remote control devices shall have a range between the start and cutoff pressure which will prevent excessive cycling; and

5. a bypass is available.

B. Inline Booster Pumps. In addition to the other requirements of this section, inline booster pumps shall:

1. be accessible for servicing and repairs;
2. maintain inlet pressure installed in the distribution system as required in §237.A of this Part under all operating conditions;
3. maintain at least 20 psig (140 kPa) in the suction line under all operating conditions with automatic shutoff or low pressure controller, unless otherwise acceptable to the state health officer; and
4. have a bypass.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§221. Automatic and Remote Controlled Stations

A. All automatic stations shall:

1. be provided with automatic signaling apparatus which will report when the station is out of service; and
2. be electrically operated and controlled and shall have signaling apparatus of proven performance if remotely controlled.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§223. Appurtenances

A. Valves. Each pump shall have:

1. an isolation valve on the intake and discharge side of the pump to permit satisfactory operation, maintenance and repair of the equipment;
2. a positive-acting check valve on the discharge side between the pump and the shut-off valve;
 - a. If foot valves are necessary, they shall have a net valve area of at least 2 1/2 times the area of the suction pipe and they shall be screened.
 - b. Surge relief valves or slow acting check valves if used shall be designed to minimize hydraulic transients.

B. Piping. In general, piping shall:

1. be designed so that the friction losses will be minimized;
2. not be subject to contamination;
3. have watertight joints;
4. be protected against surge or water hammer and provided with suitable restraints where necessary; and
5. be designed such that each pump has an individual suction line or that the lines shall be so manifolded that they will insure similar hydraulic and operating conditions.

C. Gauges and Meters. The station shall have a flow rate indicator and totalizing meter, and a method of recording the total water pumped and station water pressure. Each pump:

1. shall have a standard pressure gauge on its discharge line;
2. shall have a compound gauge on its suction line;

D. Water Seals. Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall:

1. be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure; and

2. where a break tank is provided, have an air gap of at least six inches or two pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank.

E. Controls. Pumps, their prime movers and accessories, shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two or more pumps are installed, provisions shall be made for alternations.

1. Motors shall be equipped with a non-reversing ratchet or other mechanical means to prevent backspin. If mechanical means are not provided, provisions shall be made to prevent energizing the motor in the event of a backspin cycle.

2. Electrical controls shall be located at least two feet above the 100-year flood elevation, but in no case less than two feet above the ground surface.

3. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation.

F. Standby Power. To ensure continuous service when the primary power has been interrupted, a power supply shall be provided from a standby or auxiliary source where necessary to maintain minimum 20 psig pressure throughout the system based on systems average hourly demand during the peak annual day.

1. If standby power is provided by onsite generators or engines, the fuel storage:

- a. shall have a minimum supply of 72 hours; and
- b. the fuel line must be designed to protect the water supply from contamination (see §137).

G. When automatic pre-lubrication of pump bearings is necessary and an auxiliary power supply is provided, design shall assure that pre-lubrication is provided when auxiliary power is in use, or that bearings can be lubricated manually before the pump is started.

H. All oil or grease lubricants which come into contact with the potable water shall be listed in NSF/ANSI Standard 60.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter C. Finished Water Storage

§225. General

A. The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water.

B. Steel structures shall be constructed in accordance with the American Water Works Association (AWWA) standards, incorporated by reference into these rules (see §277 for referenced standards) concerning steel tanks, standpipes, reservoirs, and elevated tanks wherever they are applicable. Other materials of construction are acceptable when properly designed to meet the requirements of this Subchapter.

C. Sizing. The following criteria applies to the sizing of storage facilities.

1. Storage facilities should have sufficient capacity, as determined from engineering studies, to meet domestic

demands, and where fire protection is provided, fire flow demands.

2. The minimum storage capacity (or equivalent capacity) for systems not providing fire protection shall be equal to the average daily consumption.

a. This requirement may be reduced when the source and treatment facilities have sufficient capacity with standby power to supplement peak demands of the system.

3. Excessive storage capacity should be avoided to prevent potential water quality deterioration problems.

D. Location of Reservoirs. The following criteria applies to the location of reservoirs.

1. Ground level reservoirs shall be protected from contamination to a point two feet above the 100-year flood elevation requirements and from groundwater infiltration. Sewers, drains, standing water, and similar sources of possible contamination must be kept at least 50 feet from the reservoir. Gravity sewers constructed of water main quality pipe, pressure tested in place without leakage, may be used at distances greater than 20 feet but less than 50 feet.

2. The bottom of ground level reservoirs and standpipes should be placed at the normal ground surface. If the bottom of a storage reservoir shall be below the normal ground surface, at least 50 percent of the water depth must be above grade.

3. The top of a partially buried storage structure shall not be less than two feet above normal ground surface. Clearwells constructed under filters may be exempted from this requirement when the design provides adequate protection from contamination.

E. Protection from Contamination. All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antenna, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred.

F. Protection from Trespassers. Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. Consideration should be given to the installation of high strength, cut resistant locks or lock covers to prevent direct cutting of a lock.

G. Drains. No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system.

H. Stored Water Age. Finished water storage designed to facilitate fire flow requirements and meet average daily consumption shall be designed to minimize stagnation and/or stored water age.

1. Consideration shall be given to separate inlet and outlet pipes, mechanical or similar mixing, or other acceptable means to prevent poor water circulation and long detention times that can lead to loss of disinfectant residual, microbial growth, formation of disinfectant byproducts, taste and odor problems, and other water quality problems.

I. Overflow. Water storage structure overflow shall comply with the following.

1. All water storage structures shall be provided with an overflow which is brought down to an elevation between 12 and 24 inches above the ground surface, and discharges over a drainage inlet structure or a splash plate. No overflow may be connected directly to a sewer or a storm drain. All overflow pipes shall be located so that any discharge is visible.

2. Certain pre-stressed concrete tanks having an overflow opening installed on the top or side of the tank shall not be required to have an internal overflow pipe as long as each opening is covered with an "eyelid" that prevents contamination of the water in the tank. The discharge from such overflow openings shall still be required to discharge over a splash plate large enough to prevent erosion of the tank's foundation or any other support structures. Caution shall be taken to ensure that any overflow down the outside of the tank will not affect electrical or cause other safety concerns.

a. When an internal overflow pipe is used on elevated tanks, it should be located in the access tube. For vertical drops on other types of storage facilities, the overflow pipe should be located on the outside of the structure.

b. The overflow for a ground-level storage reservoir shall open downward and be screened with twenty-four mesh non-corrodible screen. The screen shall be installed within the overflow pipe at a location least susceptible to damage by vandalism.

c. The overflow for an elevated tank shall open downward and be screened with a four mesh, non-corrodible screen to keep out animals or insects. The screen should be installed within the overflow pipe at a location least susceptible to damage by vandalism.

d. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate.

J. Access. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits.

1. Elevated Storage or Dome Roof Structures shall comply with the following.

a. At least one of the access manholes shall be framed at least four inches above the surface of the roof at the opening. They shall be fitted with a solid water tight cover which overlaps the framed opening and extends down around the frame at least two inches, shall be hinged on one side, and shall have a locking device.

b. All other manholes or access ways shall be bolted and gasketed according to the requirements of the state health officer, or shall meet the requirements of Subparagraph a of this Paragraph.

2. Ground Level or Flat Roof Structures shall comply with the following.

a. Each manhole shall be elevated at least 24 inches above the top of the tank or the finished grade of the surrounding ground, whichever is higher.

b. Each manhole shall be fitted with a solid water tight cover which overlaps a framed opening and extends

down around the frame at least two inches. The frame shall be at least four inches high. Each cover shall be hinged on one side, and shall have a locking device.

K. Vents. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. The vents:

1. shall prevent the entrance of surface water and rainwater;

2. shall exclude birds and animals;

3. should exclude insects and dust, as much as this function can be made compatible with effective venting;

4. shall, on ground-level structures, open downward with the opening at least 24 inches above the roof and be covered with twenty-four mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism;

5. shall, on ground storage tanks, open downward with the opening at least 24 inches above the finished grade of the surrounding ground and be covered with twenty-four mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism; and

6. shall, on elevated tanks and standpipes, open downward, and be fitted with either four mesh non-corrodible screen, or with finer mesh non-corrodible screen in combination with an automatically resetting pressure-vacuum relief mechanism, as required by the state health officer.

L. Roof and Sidewalls. The roof and sidewalls of all water storage structures shall be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body.

1. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. These wall castings should have seepage rings imbedded in the concrete.

2. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns, shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage.

3. Valves and controls should be located outside the storage structure so that the valve stems and similar projections will not pass through the roof or top of the reservoir.

4. The roof of the storage structure shall be well drained. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided.

5. The roof of concrete reservoirs with earthen cover shall be sloped to facilitate drainage. Consideration should be given to installation of an impermeable membrane roof covering.

6. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product.

M. The material used in construction of reservoirs shall be acceptable to the state health officer. Porous material, including wood and concrete block, are not suitable for potable water contact applications.

N. Safety must be considered in the design of the storage structure. The design shall conform to applicable laws and regulations of the area where the water storage structure is constructed.

1. Ladders, ladder guards, balcony railings, and safely located entrance hatches shall be provided where applicable.

2. Elevated tanks with riser pipes over eight inches in diameter shall have protective bars over the riser openings inside the tank.

3. Confined space entry requirements shall be considered.

O. Freezing. Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning.

1. Equipment used for freeze protection that will come into contact with the potable water shall meet NSF/ANSI Standard 61 or be approved by the state health officer.

2. If a water circulation system is used, it is recommended that the circulation pipe be located separately from the riser pipe.

P. Internal Catwalk. Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt.

Q. Silt Stop. The discharge pipes from water storage structures shall be located in a manner that will prevent the flow of sediment into the distribution system. Removable silt stops should be provided.

R. Grading. The area surrounding a ground-level structure shall be graded in a manner that will prevent surface water from standing within 50 feet of it.

S. Painting and/or cathodic protection. Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both.

1. Paint systems shall meet NSF/ANSI Standard 61 and be acceptable to the state health officer. Interior paint must be applied, cured, and used in a manner consistent with the NSF/ANSI approval. After curing, the coating shall not transfer any substance to the water which will be toxic or cause taste or odor problems. Prior to placing in service, an analysis for volatile organic compounds is advisable to establish that the coating is properly cured. Consideration should be given to 100 percent solids coatings.

2. Wax coatings for the tank interior shall not be used on new tanks or in the rehabilitation of existing tanks. Old wax coating must be completely removed before using another tank coating.

3. Cathodic protection should be designed and installed by competent technical personnel, and a maintenance contract should be provided.

T. Disinfection. Finished water storage structures shall be disinfected in accordance with AWWA Standard C652-11 (see Table 277).

1. If bacteriological testing for coliform organisms is negative and chlorine residuals are at acceptable distribution system levels, the storage tank may be placed into service. If such testing shows the presence of coliform bacteria, the

tank cannot be placed into service and repeat samples shall be taken until two consecutive samples, taken at 24-hour intervals, are negative. The tank shall not be placed into service until the sample results are satisfactory.

2. Disposal of heavily chlorinated water from the tank disinfection process shall be in accordance with Paragraph 4.3.5.1 of AWWA Standard C652-11 or in accordance with the requirements of the Louisiana Department of Environmental Quality (LDEQ) or other state or federal authorities, whichever is stricter.

U. Smooth-nosed sampling tap(s) or similar non-threaded stainless steel sampling taps shall be provided to facilitate collection of water samples for both bacteriological and chemical analyses. The sample tap(s) shall be easily accessible.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§227. Treatment Plant Storage

A. The applicable design standards of §225 shall be followed for plant storage.

B. Filter Washwater Tanks. Filter washwater tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by §177.A.10 of this Part. Consideration shall be given to the backwashing of several filters in rapid succession.

C. Clearwell. Clearwell storage should be sized, in conjunction with distribution system storage, to relieve the filters from having to follow fluctuations in water use.

1. When finished water storage is used to provide disinfectant contact time (see §179.C) special attention shall be given to tank size and baffling (see §227.C.2)

2. To ensure adequate disinfectant contact time, sizing of the clearwell should include extra volume to accommodate depletion of storage during the nighttime for intermittently operated filtration plants with automatic high service pumping from the clearwell during non-treatment hours.

3. An overflow and vent shall be provided.

a. A minimum of two clearwell compartments shall be provided.

D. Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two compartments are separated by a single wall, unless approved by the state health officer.

E. Unless otherwise allowed by the state health officer, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins and pump wet-wells for finished water shall be designed as finished water storage structures.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§229. Hydropneumatic Tank Systems

A. Pressure tanks shall meet ASME code requirements or an alternative approved by the state health officer. Any alternative must be rated to at least 1.5 times the maximum discharge pressure of the pump.

B. Location. The tank shall be located above normal ground surface.

C. System Sizing. The following criteria applies to the sizing of hydropneumatic systems.

1. The capacity of the wells and pumps in a hydropneumatic system shall be at least five times the average daily demand expressed in gallons per minute.

2. The gross volume of the hydropneumatic tank, in gallons, shall be at least ten times the capacity of the largest pump, rated in gallons per minute. For example, a 250 gpm pump shall be a minimum of 2,500 gallon pressure tank, unless other measures (e.g., variable speed drives in conjunction with the pump motors) are provided to meet the maximum demand.

3. Sizing of hydropneumatic storage tanks must consider the need for disinfectant contact time.

D. The hydropneumatic tank(s) shall have bypass piping to permit operation of the system while the tank is being repaired or painted.

E. Appurtenances. Each tank shall have an access manhole, a drain, and control equipment consisting of a pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air, and pressure operated start-stop controls for the pumps.

1. A pressure relief valve shall be installed and be capable of handling the full pumpage rate of flow at the pressure vessel design limit.

2. Where practical the access manhole should be 24 inches in diameter. The water sight glass shall not be mandatory if an automated control to maintain the proper water-to-air ratio in the tank is provided.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§231. Distribution System Storage

A. The applicable design standards of §225 of this Part shall be followed for distribution system storage.

B. Pressures. The maximum variation between high and low levels in storage structures providing pressure to a distribution system should not exceed 30 feet. The minimum working pressure in the distribution system shall be 20 psi gauge and the normal working pressure should be approximately 60 to 80 psi gauge. When static pressures exceed 100 psi gauge, pressure reducing devices shall be provided on mains or as part of the meter setting on individual service lines in the distribution system.

C. Drainage. Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. The storage structure drain shall discharge to the ground surface with no direct connection to a sewer or storm drain.

D. Level Controls. Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices should be provided at a central location.

1. Pumps should be controlled from tank levels with the signal transmitted by telemetering equipment when any appreciable head loss occurs in the distribution system between the source and the storage structure.

2. Altitude valves or equivalent controls may be required for second and subsequent structures on the system.

3. Overflow and low-level warnings or alarms should be located where they will be under responsible surveillance 24 hours a day.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter D. Distribution System Piping and Appurtenances

§233. General

A. All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes.

B. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§235. Materials

A. Standard and Material Selection. Standard and material selection shall comply with the following.

1. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free (*i.e.*, shall not contain more than 0.2 percent lead).

2. Any pipe, pipe fitting, plumbing fitting, fixture, and any other appurtenance which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free (*i.e.*, shall not contain more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, fixtures, and any other appurtenances).

3. The lead free requirements referenced in §235.A.1 and 2 of this Subchapter shall not apply to:

a. leaded joints necessary for the repair of existing cast iron pipes;

b. pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or,

c. toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, fire hydrants, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

B. Water Piping Quality. Quality of the piping materials shall comply with the following:

1. All potable water pipes, pipe related products and materials that join or seal pipes and pipe related products shall be evaluated and listed as conforming with a national

consensus product (or material) standard, ASTM, AWWA, NSF/ANSI Standard 61, and/or NSF/ANSI 372.

2. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free (*i.e.*, shall not contain more than 0.2 percent lead).

3. The lead free requirements referenced in §235.B.2 of this Subchapter shall not apply to:

a. leaded joints necessary for the repair of existing cast iron pipes;

b. pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or,

c. toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, fire hydrants, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

C. Permeation by Organic Compounds. Where distribution systems are installed in areas contaminated by organic compounds and such organic compounds are detected at levels that are known to pose a health risk:

1. pipe and joint materials which do not allow permeation of the organic compounds shall be used; and

2. non-permeable materials shall be used for all portions of the system including hydrant leads and service connections.

D. Used Materials. Water mains which have been used for the purpose of conveying potable water may be reused provided they meet the materials standard of §235 and have been restored substantially to their original condition.

E. Manufacturer approved transition joints shall be used between dissimilar piping materials.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§237. Distribution System Design

A. The system shall be designed to maintain a minimum pressure of 20 psig (140 kPa) at ground level at all points in the distribution system under all conditions of flow.

B. The minimum size of water main which provides for fire protection and serving fire hydrants shall be six-inch diameter. Larger size mains will be required if necessary to allow the withdrawal of the required fire flow while maintaining the minimum residual pressure specified in §237 of this Subchapter.

C. The minimum size of water main in the distribution system where fire protection is not to be provided shall be a minimum of 3 inch diameter. Any departure from minimum requirements shall be justified by hydraulic analysis and future water use, and may be considered only in special circumstances.

D. Dead end mains shall be equipped with a means to provide adequate flushing. No flushing device shall be directly connected to any sewer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§239. Valves

A. Valve spacing shall not exceed one mile except for transmission mains 24 inches or larger.

B. Valve spacing shall not exceed five miles for transmission mains 24 inches or larger.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§241. Hydrants

A. Hydrant Leads. The hydrant lead shall be at least as large as the hydrant. For new construction and hydrant replacement, auxiliary valves shall be installed on all hydrant leads.

B. Hydrant Drainage. Where hydrant drains are not plugged, a gravel pocket or dry well shall be provided unless the natural soils will provide adequate drainage.

1. Hydrant drains shall not be connected to sanitary sewers or located within 6 feet of sanitary sewers, storm sewers, or storm drains and where allowed, shall be above the seasonal groundwater table.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§243. Air Relief Valves

A. At points in water mains where air can significantly accumulate provisions shall be made to remove the air by means of air relief valves.

B. When used, the open end of an air relief pipe from automatic valves shall be extended to at least one foot above grade and provided with a screened, downward-facing elbow.

C. Discharge piping from air relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§245. Installation of Water Mains

A. Specifications for installation of water mains shall incorporate the applicable provisions of the AWWA standards and/or manufacturer's recommended installation procedures including those specifications and requirements for bedding, cover and blocking requirements.

B. Installed pipe shall be pressure tested and leakage tested in accordance with the appropriate AWWA Standards.

C. New, cleaned and repaired water mains shall be disinfected in accordance with AWWA Standard C651 (Disinfecting Water Mains) and are subject to the following additional provisions.

1. Water from new water mains shall not be furnished for consumer's use until tests performed by a laboratory certified by the state health officer have shown the new water mains to be free from contamination by coliform bacteria (following EPA approved procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Nineteenth Edition).

2. After cutting into or repairing existing mains, the water shall be tested by a laboratory certified by the state health officer for coliform bacteria (following EPA approved procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Nineteenth Edition) to determine the effectiveness of the disinfection procedure unless an alternate method is approved by the state health officer. If the direction of flow is unknown, then samples shall be taken on each side of the main break. If samples are E. coli/fecal coliform positive then the state health officer shall be notified. If samples are total coliform positive, then corrective action must be taken, and daily sampling shall continue until two consecutive samples are negative.

3. Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed herein, and the chlorinated water thoroughly flushed from the system until such chlorine measurements are no higher than those generally prevailing in the distribution system.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§247. Separation Distances from Contamination Sources

A. Parallel installation. Water mains shall be laid at least 6 feet horizontally from any existing or proposed gravity sanitary or storm sewer, septic tank, or subsoil treatment system. This distance shall be measured edge to edge.

1. In cases where it is not practical to maintain a 6 foot separation, the state health officer may allow deviation on a case-by-case basis, if supported by data from the design engineer.

B. Crossings. Where water mains cross sewers, either above which is the preferred method, or below the sewer:

1. the water main shall be laid to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sewer.

2. there shall be one full length of water pipe so that both joints will be as far from the sewer as possible. Special structural support for the water and sewer pipes may be required by the state health officer.

C. Exception. When it is impossible to obtain the minimum specified separation distances, the state health officer shall specifically approve any variance from the requirements of §247.A and §247.B of this Subchapter and the following methods of installation may be used:

1. Installation of the water main closer to a sewer, provided that the water main is laid in a separate trench or on an undisturbed earth shelf located on one side of the sewer at such an elevation that the bottom of the water main is at least 18 inches above the top of the gravity sewer.

2. The sewer materials shall be water works grade 150 psi (1.0 Mpa) pressure rated pipe meeting AWWA standards or pipe approved by the state health officer and shall be pressure tested to ensure water tightness.

D. Force Mains. There shall be at least a 6 foot horizontal separation between water mains and sanitary sewer force mains. This measurement shall be from edge to edge. There shall be an 18 inch vertical separation at crossings as required in §247 of this Subchapter.

E. Sewer Manholes. No water pipe shall pass through or come in contact with any part of a sanitary sewer manhole and shall be located at least 6 feet from sanitary sewer manholes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§249. Surface Water Crossings

A. Above-water crossings or above-grade piping, if present shall be:

1. adequately supported and anchored;
2. protected from vandalism;
3. protected from foreseeable sources of damage;
4. protected from freezing by water velocity, heating trace systems and thermal insulation or other effective method; and
5. shall be placed so as to be accessible for repair or replacement.

B. Underwater crossings if present:

1. shall have over it a minimum cover of five feet unless otherwise approved by the state health officer; and
2. when crossing water courses which are greater than 15 feet in width measured at low flow, the following shall be provided:
 - a. the pipe shall be of special construction, having flexible, restrained or welded watertight joints;
 - b. valves shall be provided at both ends of water crossings within one half mile for less than 24 inch mains or within 2.5 miles for 24 inch for larger mains so that the section can be isolated for testing or repair; the valves shall be easily accessible, and not subject to flooding under normal conditions. All other mains, services, taps, hydrants, or other devices located inside of the limits of these isolation valves shall also have easily accessible isolation valve;
 - c. permanent taps or other acceptable means to allow the use of a small meter to determine leakage and obtain water samples on each side of the valve closest to the supply source. Combination taps for both an air relief valve and a pressure tap are permissible provided the assemble meets the above criteria and the air relief valve can be isolated during the testing of the crossing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§251. Interconnections

A. The approval of the state health officer shall be obtained for interconnections between potable water supplies.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§253. Water Services and Plumbing

A. Water services and plumbing shall conform to the applicable provisions of the State Uniform Construction Code, LAC 17:I.

B. Where permitted by the water supplier, booster pumps that are used to draw water from a water supply distribution system or are placed in a system to increase the line

pressure, shall not reduce the pressure at the customer connection to less than 20 psi (pounds per square inch) gauge.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

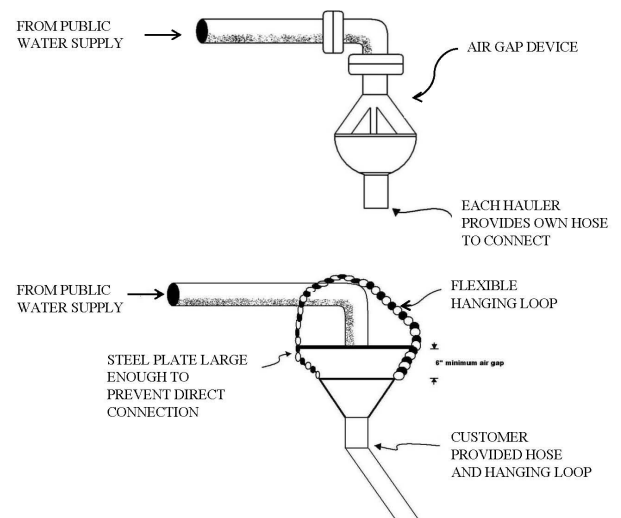
§255. Water Loading Stations

A. Water loading stations present special problems since the fill line may be used for filling both potable water vessels and other tanks or contaminated vessels.

B. For the purposes of preventing contamination of both the public water supply and any potable water vessels being filled, the following shall apply to the use and operation of water loading stations:

1. there shall be no backflow to the public water supply;
2. the piping arrangement shall be such as to prevent contamination from a hauling vessel being transferred to subsequent station users (see Figure 255); and
3. any and all portable hoses used for filling of water containers or other acceptable water vessels:
 - a. shall be fitted with a metal disk at the nozzle of the hose to prevent contact of nozzle with ground or floors.
 - b. shall be protected from dirt and contamination by storage in a tightly enclosed cabinet or acceptable storage container when not in use, and
 - c. shall be disinfected prior to use.

Figure 255. Acceptable Filling Device for Water Loading Station



AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Subchapter F. Waste Residuals

§257. General

A. All waste discharges shall be in accordance with all federal, state and/or local laws and ordinances. The requirements provided here shall, therefore, be considered minimum requirements as federal, state, and/or local water

pollution control authorities may have more stringent requirements.

B. Provisions shall be made for proper disposal of water treatment plant wastes such as:

1. sanitary and laboratory wastes;
2. clarification sludge;
3. softening sludge;
4. iron sludge;
5. filter backwash water;
6. backwash sludge; and
7. brines, including softener and ion exchange regeneration wastes and membrane wastes.

C. Some regulatory agencies consider discharge from overflow pipes/outlets as discharge wastes. In locating sewer lines and waste disposal facilities, consideration shall be given to preventing potential contamination of the water supply.

D. Alternative methods of water treatment and chemical use should be considered as a means of reducing waste volumes and the associated handling and disposal problems.

E. Appropriate backflow prevention measures shall be provided on waste discharge piping as needed to protect the public water supply.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§259. Sanitary Waste

A. The sanitary waste from water treatment plants, pumping stations, and other waterworks installations shall receive treatment.

B. Waste from these facilities shall be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved by the state health officer.

C. The appropriate federal, state, and local officials should be notified when designing treatment facilities to ensure that the local sanitary sewer system can accept the anticipated wastes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§261. Brine Wastes

A. Waste from ion exchange, demineralization, and membrane plants, or other plants which produce a brine, may be disposed of by controlled discharge to a stream if adequate dilution is available. The Louisiana Department of Environmental Quality (hereinafter, LDEQ) may establish surface water quality requirements including rate of discharge and discharge parameters.

B. Except when discharging to large waterways, a surge tank of sufficient size should be provided to allow the brine to be discharged over a 24-hour period.

C. Where discharging to a sanitary sewer, a holding tank may be required to prevent the overloading of the sewer and/or interference with the waste treatment processes. The effect of brine discharge to sewage lagoons may depend on the rate of evaporation from the lagoons.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§263. Precipitative Softening Sludge

A. Sludge from plants using precipitative softening varies in quantity and in chemical characteristics depending on the softening process and the chemical characteristics of the water being softened. Recent studies show that the quantity of sludge produced is much larger than indicated by stoichiometric calculations. Sludge from plants using precipitative softening shall be treated and disposed of as follows.

1. Lagoons. The use of lagoons shall comply with the following.

a. Short term storage lagoons should be designed on the basis of 0.7 acres per million gallons per day per 100 mg/L of hardness removed based on a usable lagoon depth of 5 feet. This should provide about 2 1/2 years storage. At least 2 but preferably more lagoons shall be provided in order to give flexibility in operation. An acceptable means of final sludge disposal shall be provided. Provisions shall be made for convenient cleaning.

b. Long term lagoons should have a volume of at least four times that for short term storage lagoons.

c. The design of both short term and long term lagoons should provide for:

- i. location free from flooding;
- ii. when necessary, dikes, deflecting gutters or other means of diverting surface water so that it does not flow into the lagoons;
- iii. a minimum usable depth of 5 feet;
- iv. adequate freeboard of at least 2 feet;
- v. adjustable decanting device;
- vi. effluent sampling point;
- vii. adequate safety provisions,
- viii. parallel operation; and
- ix. subsurface infiltration may be acceptable if approved by the appropriate reviewing authority/authorities.

2. The application of liquid lime or dewatered sludge to farm land should be considered as a method of ultimate disposal. Approval from the LDEQ shall be obtained if required.

3. Mixing of lime sludge with activated sludge waste as a means of co-disposal.

4. Disposal at a landfill either as a solid or liquid if the landfill can accept such waste, depending on LDEQ requirements.

5. Mechanical dewatering of sludge may be considered. Pilot studies on a particular plant waste are recommended. Mechanical dewatering should be preceded by sludge concentration and chemical pre-treatment.

6. Calcination of sludge may be considered. Pilot studies on a particular plant waste are recommended.

7. Discharge of lime sludge to sanitary sewers should be avoided since it may cause both liquid volume and sludge volume problems at the sewage treatment plant. This method shall be used only when the sewerage system has the capability to adequately handle the lime sludge.

B. Lime sludge drying beds shall not be used as a method of treating and/or disposing of sludge.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§265. Alum Sludge

A. Alum sludge can be discharged to a sanitary sewer. However, initiation of this practice shall depend on obtaining approval from the owner of the sanitary sewerage system as well as from the state health officer before final designs are made.

B. Mechanical concentration may be considered. A pilot study is recommended before the design of a mechanical dewatering installation.

C. Freezing changes the nature of alum sludge so that it can be used for fill. Acid treatment of sludge for alum recovery may be a possible alternative.

D. Lagoons. Lagooning may be used as a method of handling alum sludge. Lagoon size can be calculated using total chemicals used plus a factor for turbidity. Lagoons shall be designed to produce an effluent satisfactory to the LDEQ LPDS.

1. Lagoons, in addition, should provide for:
 - a. a location free from flooding;
 - b. where necessary, dikes, deflecting gutters or other means of diverting surface water so that it does not flow into the lagoon;
 - c. a minimum usable depth of 5 feet;
 - d. adequate freeboard of at least 2 feet;
 - e. adjustable decanting device;
 - f. effluent sampling point;
 - g. adequate safety provisions, and
 - h. a minimum of two cells, each with appropriate inlet/outlet structures to facilitate independent filling/dewatering operations. Lagoon size can be calculated using total chemicals used plus a factor for turbidity.

E. Mechanical dewatering may be used as a method of handling alum sludge.

1. The successful use of mechanical dewatering depends on the characteristics of the alum sludge produced, as determined by site specific studies.

2. Mechanical dewatering shall be preceded by sludge concentration and chemical pre-treatment.

F. Alum sludge may be disposed of by land application either alone, or in combination with other wastes where an agronomic value has been determined, and disposal has been approved by the LDEQ if required.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§267. "Red Water" Waste

A. Waste filter wash water from iron and manganese removal plants shall be properly disposed of in accordance with one of the following methods:

1. Sand Filters. The sand filters should have the following features:

- a. Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in 1 day, two or more cells are required.

- b. The "red water" filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters

are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved.

- c. Sufficient filter surface area should be provided so that, during any one filtration cycle, no more than 2 feet of backwash water will accumulate over the sand surface.

- d. The filter shall not be subject to flooding by surface runoff or flood waters. Finished grade elevation shall be established to facilitate maintenance, cleaning and removal of surface sand as required. Flash boards or other non-watertight devices shall not be used in the construction of filter side walls.

- e. The filter media should consist of a minimum of 12 inches of sand, 3 to 4 inches of supporting small gravel or torpedo sand, and 9 inches of gravel in graded layers. All sand and gravel should be washed to remove fines.

- f. Filter sand should have an effective size of 0.3 to 0.5 mm and a uniformity coefficient not to exceed 3.5. The use of larger sized sands shall be justified by the designing engineer to the satisfaction of the state health officer.

- g. The filter should be provided with an adequate under-drainage collection system to permit satisfactory discharge of filtrate.

- h. Provision shall be made for the sampling of the filter effluent.

- i. Overflow devices from "red water" filters shall not be permitted.

- j. Where freezing is a problem, provisions should be made for freeze protection for the filters during the winter months.

- k. "Red water" filters shall comply with the common wall provisions contained in §177 of this Part, which pertain to the possibility of contaminating treated water with unsafe water.

1. The state health officer shall be contacted for approval of any arrangement wherein a separate structure is not provided.

2. Lagoons. The lagoons shall have the following features:

- a. be designed with a volume 10 times the total quantity of wash water discharged during any 24-hour period;

- b. have a minimum usable depth of 3 feet;

- c. have a length 4 times width, and the width at least 3 times the depth, as measured at the operating water level;

- d. be designed such that the outlet is located at the end opposite the inlet;

- e. have a weir overflow device at the outlet end with weir length equal to or greater than depth;

- f. have provisions for the velocity to be dissipated at the inlet end; and

- g. subsurface infiltration lagoons shall be acceptable only if approved by the appropriate reviewing authority/authorities.

3. Red water can be discharged to a community sewer. Approval of this method will depend on obtaining approval from the owner of the sewerage system as well as from the state health officer before final designs are made.

- a. A surge tank is recommended to prevent overloading of the sewers.

- b. Design shall prevent cross connections.
- c. There shall be no common walls between potable and non-potable water compartments.
- 4. Red water may be discharged into surface water. However, the plant must have an NPDES (National Pollutant Discharge Elimination System) permit or other applicable discharge permit from the appropriate regulatory authority/authorities to dispose of backwash water into surface water.

5. Recycling of supernatant or filtrate from "red water" waste treatment facilities to the head end of an iron removal plant shall not be allowed except as approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§269. Waste Filter Wash Water

A. Backwash water from surface water treatment and lime softening plants should have suspended solids reduced to a level acceptable to the state health officer before being discharged to a backwash reclaim tank and recycled to the head of the plant.

- 1. The backwash reclaim holding tank shall:
 - a. contain the anticipated volume of waste water produced by the plant when operating at design capacity;
 - b. for plants having two filters, have a holding tank that will contain the total waste wash water from both filters calculated by using a 15 minute wash at 20 gallons per minute per square foot;
 - c. for plants having more than two filters, size the holding tank appropriately depending on the anticipated hours of operation.

B. Spent filter backwash water, thickener supernatant and liquids processes may be allowed by the state health officer to be recycled into the head of the plant, provided that:

- 1. compliance is achieved under the requirements of Subchapter G (Filter Backwash Recycling) of Chapter 11 (Surface Water Treatment Rule) of Part XII of this code;
- 2. the recycled water should be returned at a rate of less 10 percent of the instantaneous raw water flow rate entering the plant;
- 3. the recycled water should not be recycled when the raw water contains:
 - a. excessive algae,
 - b. when finished water taste and odor problems are encountered, or
 - c. when disinfection byproduct levels in the distribution system may exceed allowable levels.

d. Particular attention shall be given to the presence of protozoans such as *Giardia* and *Cryptosporidium* concentrating in the waste water stream;

4. Water utilities may need to treat filter waste water prior to recycling to reduce pathogen population and improve coagulation or avoid reclaiming filter wash water given the increased risk to treated water quality.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§271. Radioactive Materials

- A. Radioactive materials include, but are not limited to:
 - 1. granulated activated carbon (GAC) used for radon removal;
 - 2. radium adsorptive filter media;
 - 3. ion-exchange regeneration waste from radium removal;
 - 4. manganese greensand backwash solids from manganese removal systems,
 - 5. precipitative softening sludges; and
 - 6. reverse osmosis concentrates where radiological constituents are present.

B. The buildup of radioactive decay products of radon shall be considered and adequate shielding, ventilation, and other safeguards shall be provided for operators and visitors.

C. These materials may require disposal as radioactive waste in accordance with Nuclear Regulatory Commission regulations. Necessary approval shall be obtained from the LDEQ prior to disposal of all radioactive wastes if required.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§273. Arsenic Waste Residuals

A. Arsenic-bearing wastes, including but not limited to, filter backwash water and sludge, and adsorptive filter media from arsenic treatment facilities may be considered hazardous.

B. Necessary approval from LDEQ must be obtained prior to disposal of arsenic residual wastes if required.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§275. Other Approved Methods of Handling Waste

A. LDH, in coordination with other regulatory agencies may review and approve other methods of handling waste that are not specifically discussed in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§277. Standards Reference Table

A. This Section contains the particular volume of standards or the specific standard with the designation, name and the edition of the standards cited within Chapters 1 and 2 of this Part. The particular designation/edition of the standards listed below shall be applied in relation to the citation within Chapter 1 and 2 of this Part.

Standard Designation	Section/Table
ACI 350-06, Code Requirements for Environmental Engineering Concrete Structures	179.H.4.a.iv
ASME Boiler & Pressure Vessel Code - Section VIII - Pressure Vessels - 2017	229.A
ASTM Volume 01.01 Steel—Piping, Tubing, Fittings - June 2017	235.B.1
ASTM Volume 01.02 Ferrous Castings, Ferroalloys - June 2017	235.B.1
ASTM Volume 04.05 Chemical-Resistant Nonmetallic Materials; Vitrified Clay Pipe; Concrete Pipe; Fiber-Reinforced Cement Products; Mortars and Grouts; Masonry; Precast	235.B.1

Standard Designation	Section/Table
Concrete - June 2017	
ASTM Volume 08.04 Plastic Piping Systems - June 2017	235.B.1
AWWA Full Set Standards – June 2017	
Chemicals	205.B, 209.G
Disinfection of Wells	151.A, 169.E.9.c
Disinfection of Water-Storage Facilities	151.A, 225.T, 225.T.2, 225.T3
Disinfecting Water Mains	151.A, 245.C
Granular Activated Carbon	177.A.6.c.iv, 177.A.6.c.iv.d
Granular Filter Material	177.A.6
Pipe and Accessories	235.B.1, 245, 247.C.2
Water Storage Tanks	225.B
Water Wells	169.F.2
EPA Alternative Disinfectants and Oxidants Guidance Manual - 1999	179.I.1
EPA Ultraviolet Disinfection Guidance Manual - 2006	179.H
NIOSH	207.B.1, 207.D.1
NSF/ANSI 60, Drinking Water Treatment Chemicals - Health Effects	169.H.3.c.i, 201.A, 201.E.1, 205.B, 209.G, 223.H
NSF/ANSI 61, Drinking Water System Components - Health Effects	169.H.1.c, 169.H.3.c.i, 179.I.1.a, 185.A, 225.O.1, 225.S.1, 235.B.1
NSF/ANSI 372, Drinking Water System Components - Lead Content	235.B.1
Standard Methods for the Examination of Water and Wastewater, 19th edition	179.A, 245.C.1, 245.C.2

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

§279. Organization Reference Table

A. The following is a list by name and address of those agencies, associations, institutes and other entities that are referenced within Chapters 1 and 2 of this Part by name, initials or symbols. Further, other organizations may be listed, for convenience, whose technical and other services are made available as they may relate to the provisions contained within Chapters 1 and 2 of this Part.

ANSI	American National Standards Institute, Inc. 25 West 43 rd Street, 4 th Floor New York, New York 10036 Tel. (212) 642-4900; Fax (212) 398-0023 www.ansi.org
ASME	American Society of Mechanical Engineers Information Central - Orders/Inquiries P.O. Box 2300 Fairfield, New Jersey 07007-2300 Tel. (800) 843-2763 www.asme.org
ASTM International	American Society for Testing and Materials International 100 Barr Harbor Drive West Conshohocken, Pennsylvania 19428-2959 Tel. (610) 832-9500; Fax (610) 832-9555 www.astm.org
AWWA	American Water Works Association 6666 West Quincy Avenue Denver, Colorado 80235-3098 Tel. (303) 794-7711 or (800) 926-7337; Fax (303) 347-0804

NFPA	National Fire Protection Association 1 Batterymarch Park Quincy, Massachusetts 02169-9101 Tel. (617) 770-3000 or (800) 344-3555; Fax (800) 593-6372 www.nfpa.org
NSF	NSF International 789 N. Dixboro Road P.O. Box 130140 Ann Arbor, Michigan 48113-0140 Tel. (734) 769-8010 or (800) 673-6275; Fax (734) 769-0109 www.nsf.org

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8), 40:4.13.D.(1)(2) and 40:5.A.(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:

Chapter 3. Water Quality Standards

§319. Significant Deficiencies Identified in Sanitary Surveys

A. - C. ...

D. For all public water systems, the following have been determined by the state health officer to be significant deficiencies and shall be corrected in accordance with §319.B of this Part:

1. §105.A, 105.B or 105.D of this Part;

2. - 14. ...

15. For fluoride only, day tanks shall be provided where bulk storage of liquid chemical is provided, meet all the requirements of §203.J, hold no more than a 30-hour supply, and be scale mounted or have a calibrated gauge painted or mounted on the side if liquid levels can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a reference point at the top of the tank, attached to a float can be used. The ratio of the area of the tank to its height shall be such that unit readings are meaningful in relation to the total amount of chemical fed during a day;

16. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), 40:13.D.(1)(2) and R.S. 40:5.A.(2)(3)(5)(6)(7)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:85 (January 2017), amended LR 44:

Family Impact Statement

1. The Effect on the Stability of the Family. None
 2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None
 3. The Effect on the Functioning of the Family. None
 4. The Effect on the Family Earnings and Family Budget. The proposed rule adopts new design and construction standards for public water systems effective August 1, 2018. There may be a slight increase in family budget due to increased monthly water bills if served drinking water by a public water system (PWS) that undergoes new construction/renovations after August 1, 2018. The PWS may determine a need to increase their revenue collections (i.e., increase water bills) to cover the increased constructions costs for certain projects that have more stringent requirements in the proposed rule. The

increased costs associated with such new construction/renovations is inestimable as it would vary and be dependent upon the size and scope of the actual project being proposed. Therefore, the effect of the rule on family budget is unknown.

5. The Effect on the Behavior and Personal Responsibility of Children. None

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None for family. The proposed rule adopts new design and construction standards for public water systems effective August 1, 2018. Local governmental units which own/operate a PWS that undergoes new construction/renovations after the August 1, 2018 may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the increased design and construction costs for certain projects that have stricter rule requirements. The increased costs associated with such new construction/renovations is inestimable as it would vary and be dependent upon the size and scope of the actual project being proposed.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. The proposed Rule adopts new design and construction standards for public water systems effective August 1, 2018. The proposed Rule may increase the monthly water bill for households if served drinking water by a public water system (PWS) that undergoes new construction/renovations after August 1, 2018. The PWS may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the increased construction costs for certain projects that have more stringent requirements in the proposed Rule. The increased costs associated with such new construction/renovations is inestimable as it would vary and be dependent upon the size and scope of the actual project being proposed. Therefore, the effect of the Rule on households is unknown.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule will likely cause an increase in competition to hire Louisiana Licensed Professional Engineers to design drinking water infrastructure projects that comply with the new design regulations. The Rule will require them to become knowledgeable of the new design regulations in order to receive a permit for constructing drinking water infrastructure projects. The Rule requires plans and specifications submitted for a permit on/after August 1, 2018 (effective date of rule) to comply with the new design regulations. Construction of drinking water infrastructure projects submitted on/after August 1, 2018 could be delayed if the project does not comply with the new regulations. Delayed projects could adversely affect employment. Therefore, the effective date of the rule is proposed to be delayed several months from the anticipated date of the final rule publication to provide stakeholders time to become aware of and study the changes in the design standards.

4. The Effect on Taxes and Tax Credits. There will be no effect on taxes and tax credits

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The purpose of the proposed Rule is to adopt certain standards for public water systems (PWSs) developed and approved by the *Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee* (a.k.a., "water committee") and the Louisiana Department of Health in accordance with Act 292 and Act 488 of the Regular Legislative Sessions, 2013 and 2014, respectively. The proposed standards will assist LDH-OPH in ensuring the continued protection of public health from contaminated drinking water through enforceable standards that address the proper design, operation and maintenance of PWSs. Currently, the *Recommended Standards for Water Works*, 2003 Edition (a.k.a., "Ten State Standards") is primarily used for the design basis of water supply infrastructure projects as adopted in Section 105.D of Part XII (Water Supplies) of the State Sanitary Code (LAC 51). The proposed standards will replace Ten State Standards and be applicable to the design and construction of drinking water supply infrastructure projects proposed for a permit effective August 1, 2018.

The impact of the proposed Rule on small businesses as required by 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 drafting the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impacts of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable effect on the:

1. effect on the staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Friday, December 29, 2017 at COB, 4:30 p.m., and should be addressed to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street, Room 125, Baton Rouge, LA 70802.

Public Hearing

LDH-OPH will conduct a public hearing at 1 pm on Wednesday, December 27, 2017, in Room 173 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. Fourth / North and Main Streets. (cater-corner 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.

Jimmy Guidry, MD
State Health Officer
and
Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Water Works Construction, Operation and Maintenance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fees associated with the proposed rule change, which is estimated to be \$20,102, it is not anticipated that the Louisiana Department of Health— Office of Public Health (LDH-OPH) will incur any other costs or savings as a result of this rule.

The proposed rule adopts standards for public water systems (PWSs) that were developed and approved by the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee and the Louisiana Department of Health (LDH). The proposed standards are applicable to the review and permitting of the design and construction of drinking water supply infrastructure projects effective August 1, 2018. Currently, the *Recommended Standards for Water Works*, 2003 Edition (commonly referred to as the Ten State Standards) is primarily used for the design basis of water supply infrastructure projects as adopted in Section 105.D of Part XII (Water Supplies) of the State Sanitary Code (LAC 51). The proposed standards will replace Ten State Standards effective August 1, 2018.

State and local agencies that own/operate a PWS undergoing new construction/renovation after August 1, 2018 will be impacted by the proposed rule. For these agencies, depending on the project scope, there may be an increase in the design/construction costs due to more stringent requirements (e.g., chlorine dioxide generator). However, there may also be a decrease in design/construction costs due to lesser requirements for other projects (e.g., chlorine gas storage). The change in implementation costs as a result of this rule change is not estimable as it would vary depending on the size and scope of the actual project being proposed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change does not directly affect state or local governmental revenue collections. However, revenue collections of state and local governmental units that own/operate a PWS may need to increase to cover the increased implementation costs for certain projects that have stricter rule requirements. Similar to implementation costs, the increase in revenue collections needed for such new construction/renovations is not estimable as it would vary and be dependent on the size and scope of the actual project being proposed on/after August 1, 2018.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Design engineers and PWSs involved in developing plans and specifications for new drinking water infrastructure construction projects will be directly affected by the proposed rule and may incur additional costs for training to familiarize themselves with the new design regulations. These training costs will vary per

person and job function based on his/her training needs. In anticipation of eventually publishing a final rule on a public website, these individuals will be able to download the final design regulations from the Office of the State Register's website free of charge.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will likely cause an increase in competition to hire Louisiana Licensed Professional Engineers to design drinking water infrastructure projects that comply with the new design regulations. The rule will require them to become knowledgeable of the new design regulations in order to receive a permit for constructing drinking water infrastructure projects. The rule requires plans and specifications submitted for a permit on/after August 1, 2018 to comply with the new design regulations. Construction of drinking water infrastructure projects submitted on/after August 1, 2018 could be delayed if the project does not comply with the new regulations. Delayed projects could adversely affect employment.

Jimmy Guidry, M.D.
State Health Officer
1711#046

Evan Brasseaux
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of the Secretary

Debts Owed to the Department of Natural Resources (LAC 43:I.133)

The Department of Natural Resources, Office of the Secretary proposes to promulgate LAC 43:I.133 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under R.S. 36:353 and the laws of the state of Louisiana. The proposed Rule sets forth the process by which the Department of Natural Resources invoices applicable debts owed to it. Further, the proposed Rule establishes a due date for applicable debts and the time delays in which a person may challenge such debts by requesting a public hearing before the Division of Administrative Law. Finally, the proposed Rule establishes when an applicable debt owed to the Department of Natural Resources becomes "final" for purposes of R.S. 47:1676 and can be forwarded to the Louisiana Office of Debt Recovery or to the Attorney General's Office for debt collection activities. The proposed Rule does not apply to debts owed the Commissioner of Conservation, the State Mineral and Energy Board, federal loan or grant programs, the Fisherman's Gear Compensation Fund, or debts associated with the overpayment of active or separated DNR employees.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 1. General

§133. Debts Owed to the Department of Natural Resources

A. Applicability. This Section is applicable for all debts owed to the Department of Natural Resources (hereinafter referred to as "DNR"), with the following exceptions:

1. debts associated with mineral leases or operating agreements, or mineral production on State lands and water

bottoms, or to any debts under the authority of the State Mineral and Energy Board;

2. debts associated with federal loans or grant programs, including but not limited to those issued, through the Home Energy Loan Program (HELP), Energy Fund, or the American Recovery and Reinvestment Act of 2009 (ARRA) Revolving Loan Fund;

3. debts other than those debts owed under the Oilfield Site Restoration Act (R.S. 30:80, et seq.) that are owed to the Office of Conservation or the Commissioner of Conservation,

4. debts owed the Fisherman's Gear Compensation Fund (R.S. 56:700.1, et seq.), or

5. debts associated with the overpayment of active or separated DNR employees.

B. Due Date of Applicable Debt

1. When an applicable debt is owed to DNR, DNR shall create an invoice for that debt. Among other things the invoice shall identify the amount of the debt owed to DNR and the individual, company, or organization that owes the invoiced debt to DNR. In the event that the applicable statutes or rules establish the date on which the invoiced debt is due, the invoiced debt amount shall be due to DNR on that date. When the applicable statutes or rules do not establish a date on which the invoiced debt is due, then the invoiced debt shall be due 60 days after the invoice is duly delivered to the party identified as owing the debt. In the event, the debt has been invoiced prior to the effective date of this regulation and there is no due date established by the applicable statute or regulation, then the debt amount shall be due 60 days after the effective date of this regulation.

2. For purposes of this Section, the invoice shall be deemed duly delivered upon:

a. receipt by the party identified as owing the debt if delivered in person;

b. if properly addressed, two days after deposit in the U.S. mail;

c. if properly addressed, one business day after it is sent by recognized commercial overnight courier service; or

d. if properly addressed, upon transmission if sent via email with confirmation of receipt.

3. For purposes of this Section, *properly addressed* means the invoice is addressed to the physical, mailing, or e-mail address that is:

a. registered by the party with the department or any of its offices or programs where such registration is required by applicable law or regulation;

b. provided by the party to the department or any of its offices or programs on an application or other agency form; or

c. if no other address exists, then any address otherwise provided by law.

C. Dispute of an Applicable Debt. In the event the party that is invoiced disputes the debt owed to DNR said party may request an administrative hearing in writing within 60 days after the invoice is duly delivered to said party. Such requests shall set forth the basis for the party's belief that it does not owe the debt to DNR. Such requests shall be addressed to DNR-Office of the Secretary, ATTN: DNR Debt Appeal, P.O. Box 94396, Baton Rouge, LA 70804-9396.

1. The request for an appeal of a debt will be deemed submitted to DNR on:

a. the date it is actually hand delivered to DNR;

b. if properly addressed, two days after deposit in the U.S. Mail; or

c. if properly addressed, one business day after it is sent by recognized commercial overnight courier service.

2. The administrative hearing shall be presided over by a Division of Administrative Law hearing officer and subject to the rules and requirements established by the Division of Administrative Law Act (R.S. 49:991-999.1).

D. Final Debts. Debts owed to DNR shall become final pursuant to R.S. 47:1676 either the day after the deadline to request an administrative hearing as set forth in Subsection C of this Section has passed and no request for an administrative hearing has been made, or when a final and un-appealable decision is made that the debt is owed to DNR by a competent administrative hearing officer or a court of competent jurisdiction.

E. Cost Recovery. Pursuant to R.S. 47:1676, when any debt owed to DNR becomes final then the debt shall be referred to the Office of Debt Recovery, Department of Revenue or to the Attorney General's office for collection in accordance with the agency participation agreement between the Department of Natural Resources, the Louisiana Department of Revenue, and the Louisiana Attorney General's Office that is then in effect.

F. Not a Replacement of the Judicial Review Process. Creation of the right set forth in Subsection C of this Section to request an administrative hearing to challenge whether a specific party owes a specific invoiced debt is not intended to replace or alter the judicial review process for challenging the validity of underlying regulations, orders, civil penalties, or other decisions properly challenged under other statutory authority, including but not limited to, R.S. 30:12, R.S. 49:962.1-965, R.S. 49:968, or R.S. 49:214.35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:353(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 44:

Family Impact Statement

In accordance with Section 953 and 972 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. This Family Impact Statement shall be kept on file in the Office of the Secretary, Department of Natural Resources in accordance with the Louisiana Public Records Law.

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 the 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? No.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until noon on December 29, 2017, at the Office of the Secretary, Department of Natural Resources, P.O. Box 94396, Baton Rouge, LA, 70804. All inquiries should be directed to Blake Canfield, Executive Counsel.

Public Hearing

The Secretary of DNR or his designee will conduct a public hearing at 1:30 p.m., December 27, 2017, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Thomas F. Harris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Debts Owed to the Department of Natural Resources**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in costs or savings to the state or local governmental units. The purpose of the rule is to establish a process to invoice for debt owed to the Department of Natural Resources (DNR). The proposed rule does not create a new debt but sets forth the process of when and how debts become final. The proposed rule includes the due date, process to challenge the debt, and the deadline to submit. The proposed rule is applicable to all the debts owed to DNR except for debts associated with mineral leases or operating agreements, federal loans or grants, the Office of Conservation, the Fisherman’s Gear Compensation Fund, or the overpayment of active or separated employees.

La. R.S. 47:1676 requires that “final debt” owed to a State agency be forwarded to the Louisiana Office of Debt Recovery (ODR) for collection activities. There was no clear method of determining exactly when the applicable debts owed to the DNR become “final debts” if not paid or litigated. Additionally, there was no clear administrative process for persons to challenge applicable debts invoiced by DNR. The proposed rule would address both of these needs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to increase revenue collections to DNR and ODR by an indeterminable amount. The proposed rule is intended to increase clarity of when

applicable debts become final. This may lead to additional collections of these existing debts, however, the amount of collections that will be received is too uncertain to estimate at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule does not create new debt obligations or entitlements, but does set a clear deadline for when debts may be forwarded to ODR. Therefore, it is anticipated entities that owe debt to DNR will be paying their debt more frequently since the proposal sets forth the appropriate process for invoicing authorized debts, challenging authorized invoiced debts, and finalizing authorized debts for collection. The amount of collections that will be paid by the entities is too uncertain to estimate at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

Thomas F. Harris
Secretary
1711#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

State Police Escort Fees (LAC 55:I.1101)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:387 et seq., gives notice of its intent to promulgate amended rules that increase the state police escort fee schedule, which has not been amended since 1983.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 11. State Police Escort Fees

§1101. Distance/Fees

A. Notice is hereby given that the Louisiana Department of Public Safety, pursuant to R.S. 32:387(B)(4) as amended, has adopted the following fee scale for the use of state police vehicles as escorts to vehicles moving over the highways of this state under special permits.

Distance Traveled by Escort Vehicle Fee	
0-49 miles	\$100
50-99 miles	\$125
100-199 miles	\$150
200-299 miles	\$175
300 and over miles	\$200

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:387(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 9:15 (January 1983), Department of Public Safety and Corrections, Office of State Police amended LR 44:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of This Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

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.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

The agency has considered economic welfare factors 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 poverty.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through December 15, 2017.

Lt. Col. Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Police Escort Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not estimated to result in implementation costs or savings to state or local governmental units. The proposed rule change will increase escort fees for certain oversized, permitted loads by \$75 per escort.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana State Police (LSP) is required by law to provide proper escort for certain oversized, permitted loads as directed by the Louisiana Department of Transportation and Development (DOTD) to protect the interests of the state, the state highway system and public safety. LSP conducted an internal study that examined the costs associated with the use of LSP vehicles for these escorts. The study concluded that the current \$25 base vehicle use fee table, which was adopted in 1983, is insufficient to cover the fuel, maintenance, and insurance costs for LSP vehicles to perform escorts. On average from FY 12 through FY 17, LSP experienced an annual operating deficit of approximately \$300,000 in its escort activity due to insufficient vehicle use fees for escorts.

The proposed rule change will increase escort fees by \$75 per escort. The increase is estimated to increase SGR collections for LSP by approximately \$363,000 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Private industry that contracts with LSP for escorts will be affected by the proposed fee increase. As cited above, the proposed escort fee table would increase the cost per escort by \$75. Between FY 12 and FY 17, LSP performed an average of 4,845 escorts annually. Assuming this six-year historical average is typical, the proposed fee increase will increase costs to industry by approximately \$363,000 annually. The LFO assumes these costs will be shifted to those purchasing oversized transportation services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to result in material effects on competition and employment.

Lt. Col. Jason Starnes
Chief Administrative Officer
1711#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

ReNEW Charter Management Organization
(LAC 58:III.1901)

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. 11:826 that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has approved for advertisement the adoption of LAC 58:III.1901 in order to ensure compliance with Internal Revenue Code provisions governing qualified governmental retirement plans by memorializing an agreement between

TRSL and the ReNEW Charter Management Organization, which clarifies TRSL membership provisions for ReNEW Charter Management Organization employees. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana

Chapter 19. ReNEW Charter Management Organization

§1901. ReNEW Charter Management Organization Employees

A. For purposes of determining membership in the Teachers' Retirement System of Louisiana under R.S. 17:3997, R.S. 11:162, and R.S. 11:701, et seq., membership eligibility, service credit, and return-to-work status shall be determined in a manner consistent with the June 29, 2017, agreement between ReNEW Charter Management Organization and the Teachers' Retirement System of Louisiana. All applicable provisions of Title 11 of the Louisiana Revised Statutes of 1950 shall be construed in accordance with the June 29, 2017, agreement to the extent consistent with the law of Louisiana, the tax qualification requirements applicable to governmental retirement plans under the Internal Revenue Code, as the same may be amended, and any compliance statement rendered by the Internal Revenue Service under the Voluntary Correction Program relating to such agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System, LR 44:

Family Impact Statement

The proposed adoption of LAC 58:III.1901 relative to ReNEW Charter Management Organization Employees should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed adoption of LAC 58:III.1901 relative to ReNEW Charter Management Organization Employees should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and

5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

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 on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2017, to Matt Tessier, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Dana L. Vicknair
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: ReNEW Charter Management Organization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule codifies an agreement between Teachers' Retirement System of Louisiana (TRSL) and ReNEW Charter Management Organization (ReNEW) to correct certain enrollment errors committed by ReNEW. The proposed rule will also serve as a corrective amendment to TRSL's plan document for purposes of the Internal Revenue Service's Voluntary Correction Program (VCP).

The agreement, which is being codified, details how the enrollment errors will be corrected as well as how ReNew will compensate TRSL for financial losses as a result of the errors. In part, the parties agreed that ReNEW would incur interest charges on delinquent contributions that should have been submitted to TRSL. The interest charge is provided in existing statutes LA R.S. 11:888(C)(2) and 11:158(C). The interest pursuant to statute is \$44,726. Additionally, in accordance with LA R.S. 11:710(C)(2), ReNEW will reimburse TRSL \$149,284 for benefit overpayments due to ReNew's failure to report the rehiring of a TRSL retiree.

Other than the publication fees associated with the proposed rule changes, the proposed rule has no implementation cost for either TRSL or ReNew.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Codifying this agreement into administrative rule has no future impact on the revenue collections of TRSL. This rule is limited to codifying an agreement that provides direction on how to correct a specific instance of retirement enrollment errors at a specific charter school, as needed for documentation purposes for the Internal Revenue Service's VCP. TRSL and ReNew came to a settlement agreement on how these errors would be corrected in accordance with existing state statutes. As a part of the agreement, TRSL will collect \$194,010 in interest and payments from ReNew.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule has no estimated cost or benefit to ReNew employees. However, as a result of the agreement,

corrections will be made to fix enrollment errors for ReNew employees that were either erroneously enrolled or failed to be enrolled in TRSL. In part, the agreement provides that certain ReNew employees who should have been enrolled in TRSL, but were not, will receive TRSL service credit. Additionally, certain ReNew employees who were erroneously enrolled in TRSL will be un-enrolled from TRSL and enrolled in Social Security.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Dana L. Vicknair
Director
1711#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

2008 8-hour Ozone National Ambient Air Quality Standard Maintenance Plan—Reid Vapor Pressure Relaxation

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division will submit a proposed request to relax the federal Reid Vapor Pressure (RVP) standard applicable to gasoline required in the ozone maintenance plan for the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS) for the 5-parish Baton Rouge Nonattainment Area (BRNA), which includes Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge parishes. This action will amend the Baton Rouge Nonattainment Area 2008 8-hour Ozone NAAQS Redesignation Maintenance Plan to change the summertime RVP standard for the area from 7.8 pounds per square inch (psi) to 9.0 psi. (1711Pot1)

A public hearing will be scheduled upon request. All interested parties are invited to submit written comments concerning the revision to the maintenance plan for the Baton Rouge area no later than 4:30 p.m., December 29, 2017, to Vivian Aucoin, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA 70821-4314, or by email to vivian.aucoin@la.gov.

A copy of the proposal may be viewed on the LDEQ Electronic Document Management System (EDMS) or at LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA 70802.

Herman Robinson
General Counsel

1711#027

POTPOURRI

Department of Health Bureau of Health Services Financing

Pediatric Day Health Care Program Moratorium on Provider Enrollment

The Department of Health, Bureau of Health Services Financing provides pediatric day health care (PDHC) services as an optional covered service under the Medicaid State Plan. Pediatric day health care services offer a community-based alternative to traditional long-term care or extended nursing services for children with medically complex conditions. It is designed to meet the medical, social and developmental needs of medically fragile

individuals up to the age of 21 who require continuous nursing services and other therapeutic interventions. These services are provided in non-residential settings which are licensed as PDHC facilities and enrolled in the Medicaid Program.

The department established provisions governing the imposition of temporary moratoria, in consultation with the secretary of the U.S. Department of Health and Human Services, on enrollment of new providers or provider types in the Medicaid Program (*Louisiana Register*, Volume 39, Number 4). The department hereby gives notice of the moratorium on enrollment of pediatric day health care providers through December 31, 2017, in compliance with the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Rebekah E. Gee MD, MPH
Secretary

1711#067

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
Andries Brothers	Pendleton-Many	S	Derr	002	99528
Dorothy Wilson Donald	Monroe	M	Dorothy Wilson Donald	001	156063
Dorothy Wilson Donald	Monroe	M	Dorothy Wilson Donald	002	156064
Luca Operation, LLC	Edna, North	L	Richardson	001	241343
Luca Operation, LLC	Plumb Bob	L	sp-wx ra sua; A D Kennison	001	243344

Richard P. Ieyoub
Commissioner

1711#074

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

LWMIWCB Crude Oil Discharges Notice of Availability of a Draft Restoration Plan

Action: Notice of availability of a Draft Restoration Plan (DRP) with a 30-day public review and comment period for LOSCO NRDA case files: #LA2003_0302_0716 [Lake Washington 2003]; #LA2003_1202_1200 [Mendicant Island 2003]; and #LA2005_0419_1950 [West Champagne Bay 2005], collectively referred to as LWMIWCB.

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); and Louisiana Coastal Protection and Restoration Authority (CPRA).

Authorities: The Oil Pollution Act of 1990 (OPA) (33 USC 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. In accordance with OPA and OSPRA, the agencies listed above (referred to herein as the "Trustees") have conducted a Natural Resource Damage Assessment (NRDA) for the March 2, 2003 crude oil discharge into Lake Washington, Plaquemines Parish, Louisiana and the December 2, 2003 and April 19, 2005 crude oil discharges into Barataria Bay, Jefferson Parish, Louisiana. ExxonMobil Pipeline Company (EMPCo) was identified as the Responsible Party for the three incidents.

Summary: Pursuant to LAC 43:XXIX.Chapter 1, notice is hereby given that a document entitled, "Draft Restoration Plan Lake Washington (2003), Mendicant Island (2003), and West Champagne Bay (2005)" is available for public review and comment. The DRP presents the Trustees' plan to restore, replace, or acquire natural resources or services equivalent to those lost, compensating the public for the injuries to natural resources resulting from the incidents. The DRP identifies and evaluates specific restoration projects that the Trustees considered and identifies the Trustees' preferred restoration alternative (at a restoration project level). The Trustees' preferred restoration alternative is designed to create coastal herbaceous wetlands, including brackish marsh, near Lost Lake, Louisiana. After finalization of the DRP, the Trustees will prepare a Final Restoration Plan (FRP) and make it available to the public.

The DRP is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the documents for public review. The Trustees invite the public to review this document and submit comments to the address listed below. The Trustees

will consider comments received during the public comment period on the DRP before finalizing the document. Public review of the DRP is consistent with all state laws and regulations that apply to the NRDA process, including Section 2480 of OSPRA and the regulations for NRDA under OSPRA, LAC 43:XXIX.Chapter 1.

Interested members of the public are invited to view the DRP via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for LWMIWCB oil spills NRDA Draft Restoration Plan Available) or by requesting a copy of the documents from Chuck Armbruster at the address provided below:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614 Mail Slip B15
Baton Rouge, LA 70896
(225) 925-6606
Charles.Armbruster@la.gov

Comment Submittals: Comments must be submitted in writing or digitally to Chuck Armbruster on or before the end of the 30-day comment period.

For Further Information: Contact Chuck Armbruster at (225) 925-6606 or by email at charles.armbruster@la.gov.

Supplementary Information: On September 20, 2003, August 20, 2005, and February 20, 2006, the Trustees published Notices of Intent in the *Louisiana Register* (Vol. 29, No. 09, pp. 1952-1953; Vol. 31, No. 08, pp. 2151-2152; and Vol. 32, No. 02, pp. 343-344, respectively) to notify the public that they were going to conduct restoration planning for the three incidents and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the incidents. In October 2016, EMPCo agreed to settle their NRDA liability for a cash amount, in lieu of implementing a restoration project. In July 2017, the Trustees released a Draft Settlement Agreement (Draft SA) and Draft Damage Assessment and Preliminary Restoration Plan (Draft DAPRP) to, among other things: 1) identify the preferred restoration alternative (at a restoration type level), which would be implemented by the Trustees, as a basis for the cash settlement; 2) provide an analysis for scaling the injured resources to the preferred restoration alternative; and 3) identify the methodology used for estimating the costs of implementing the preferred restoration alternative. Notice of the Draft SA and Draft DAPRP was published in the *Louisiana Register* on July 20, 2017 (Vol. 43, No. 07, pp. 1487-1488). The Trustees did not receive comments during the public comment period and executed the Final Settlement Agreement in October 2017. The Final Settlement Agreement is also available with the Final DAPRP via the internet at <http://www.losco.state.la.us>.

Marty J. Chabert
Oil Spill Coordinator

1711#037

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

LWMIWCB Crude Oil Discharges Notice of Availability of a Final Settlement Agreement

Action: Notice of availability of a Final Settlement Agreement (Final SA) and Final Damage Assessment and Preliminary Restoration Plan (Final DAPRP) for LOSCO NRDA case files: #LA2003_0302_0716 [Lake Washington 2003]; #LA2003_1202_1200 [Mendicant Island 2003]; and #LA2005_0419_1950 [West Champagne Bay 2005], collectively referred to as LWMIWCB.

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); and Louisiana Coastal Protection and Restoration Authority (CPRA).

Summary: Notice is hereby given that a document entitled, "Settlement Agreement Lake Washington (2003), Mendicant Island (2003), and West Champagne Bay (2005)" is available to the public. The Final SA was negotiated by the Trustees and ExxonMobil Pipeline Company (EMPCo) to recover damages for injuries to natural resources and services resulting from the incidents. The Final SA is a binding agreement in which EMPCo agrees to pay the Trustees \$2,082,119.29 for past assessment costs, future trustee costs, and future restoration project implementation costs associated with a Trustee-implemented compensatory restoration project as described in the Final DAPRP (Attachment 1 of the Final SA). The Final DAPRP provides information on the natural resource injury determinations conducted as part of the NRDA and identifies the Trustees' preliminary restoration plan for compensating the public for

injuries to natural resources and services resulting from the three incidents. Execution of the Final Settlement Agreement by the Trustees and EMPCo shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incidents.

Interested members of the public are invited to view the Final SA and Final DAPRP via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for LWMIWCB Final Settlement Agreement Available) or by requesting a copy of the documents from Chuck Armbruster at the address provided below:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
Charles.Armbruster@la.gov

For Further Information: Contact Chuck Armbruster at (225) 925-6606 or by email at charles.armbruster@la.gov.

Supplementary Information: The public was provided an opportunity to review and comment on the Draft SA and Draft Damage Assessment and Preliminary Restoration Plan documents during the public comment period, which extended from July 20, 2017 to August 20, 2017. Public review is consistent with all federal and state laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including the Oil Pollution Act of 1990 (OPA) (33 USC 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 et seq.). The Trustees did not receive comments during the public comment period and have executed the Final SA.

Marty J. Chabert
Oil Spill Coordinator

1711#036

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