

**I. EXECUTIVE ORDER**  
 BJ 10-07 Flags at Half-Staff..... 912  
 BJ 10-08 Emergency Procedures for Conducting State Business..... 912

**II. EMERGENCY RULES**  
**Agriculture and Forestry**  
 Office of Agricultural and Environmental Sciences—Pesticide 2, 4-D (LAC 7:XXIII.143) ..... 914  
 ULV Malathion/Pyrethroid (LAC 7:XXIII.143)..... 914

**Education**  
 Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs—Rockefeller State Wildlife Scholarship (LAC 28:IV.Chapter 11) ..... 915  
 Scholarship/Grant Programs—TOPS (LAC 28:IV.703 and 803) ..... 917

**Governor**  
 Crime Victims Reparation Board—Eligibility for Reparations (LAC 22:XIII.301) ..... 919

**Health and Hospitals**  
 Board of Veterinary Medicine—Temporary Registration during a Declared Emergency (LAC 46:LXXXV.311)..... 919  
 Bureau of Health Services Financing—Adult Dentures Program—Denture Replacement and Reline Limits (LAC 50:XXV.503)..... 920  
 Ambulatory Surgical Centers—Reimbursement Rate Reduction (LAC 50:XI.7503) ..... 921  
 Disproportionate Share Hospital Payments—Low Income and Needy Care Collaboration (LAC 50.V.2503 and 2713) ..... 921  
 Disproportionate Share Hospital Payments—Non-Rural Community Hospitals (LAC 50.V.2701) ..... 923  
 Early and Periodic Screening, Diagnosis and Treatment—Dental Program—Reimbursement Rate Reduction (LAC 50:XV.6905) ..... 924  
 End Stage Renal Disease Facilities—Reimbursement Rate Reduction (LAC 50:XI.6901 and 6903) ..... 925  
 Family Planning Waiver—Reimbursement Rate Reduction (LAC 50:XXII.2701) ..... 926  
 Home and Community-Based Services Waivers—Children’s Choice Reimbursement Rate Reduction (LAC 50:XXI.12101) ..... 927  
 Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101) ..... 928  
 Home Health Program—Nursing and Home Health Aide Services—Reimbursement Rate Reduction (LAC 50:XIII.701) ..... 928  
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Children’s Specialty Hospitals (LAC 50:V.909 and 967)..... 929  
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Major Teaching Hospitals (LAC 50:V.1333) ... 930  
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Reduction (LAC 50:V.953, 955, 959 and 967) ..... 931  
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Supplemental Payments (LAC 50:V.Chapter 9) ..... 935  
 Inpatient Hospital Services—Pre-Admission Certification (LAC 50:V.301) ..... 939  
 Laboratory and Radiology Services—Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4334-4337).... 939  
 Medicaid Eligibility—Express Lane Eligibility (LAC 50:I.Chapter 11) ..... 941  
 Medicaid Eligibility—Medicare Savings Programs (LAC 50:III.2325, 10703 and 10705) ..... 942  
 Medical Transportation Program—Non-Emergency Ambulance Services—Reimbursement Rate Reduction (LAC 50:XXVII.571)..... 944  
 Medical Transportation Program—Non-Emergency Medical Transportation—Reimbursement Rate Reduction (LAC 50:XXVII.573)..... 944  
 Mental Health Rehabilitation Program—Reimbursement Rate Reduction (LAC 50:XV.901) ..... 945

This public document was published at a total cost of \$3,325. Five hundred copies of this public document were published in this monthly printing at a cost of \$3,325. The total cost of all printings of this document including reprints is \$3,325. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Multi-Systemic Therapy—Prior Authorization and Reimbursement Rate Reduction (LAC 50:XV.25305 and 25701).....	946
Nursing Facilities—Reimbursement Rate Reduction (LAC 50:VII.1305) .....	947
Nursing Facilities—Reimbursement Rate Reduction (LAC 50:VII.1305 and 1309).....	948
Outpatient Hospital Services—Non-Rural, Non-State Hospitals—Children’s Specialty Hospitals (LAC 50:V.5109, 5317, 5517, 5719, 5917 and 6119) .....	949
Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children’s Specialty Hospitals Reimbursement Rate Reduction (LAC:V.5313, 5317, 5513, 5517, 5713, 5719, 5913, 5917, 6115 and 6119).....	950
Outpatient Hospital Services—Non-Rural, Non-State Hospitals—Major Teaching Hospitals (LAC 50:V.6533).....	954
Pharmacy Benefits Management Program—Medication Administration—H1N1 Immunizations (LAC 50:XXIX.123 and 991).....	955
Pregnant Women Extended Services—Dental Services—Reimbursement Rate Reduction (LAC 50:XV.16107) .....	955
Professional Services Program—Anesthesia Services—Reimbursement Methodology (LAC 50:IX.15111 and 15131-15135).....	956
Professional Services Program—Family Planning Services—Reimbursement Rate Reduction (LAC 50:IX.15141-15143) .....	958
Professional Services Program—Physician Services—Reimbursement Rate Reduction (LAC 50:IX.15103 and 15111-15113) .....	959
Prosthetics and Orthotics—Reimbursement Rate Reduction (LAC 50:XVII.501) .....	960
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Children’s Choice Reimbursement Rate Reduction (LAC 50:XXI.12101) .....	927
Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101) .....	928
<b>Social Services</b>	
Office of Family Support—Supplemental Nutritional Assistance Program (SNAP) Iraqi, Afghan Immigrant—Qualified Alien (LAC 67: III 1223, 1931, 1932, 1934, 1995, 1999).....	961
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—2010 Spring Inshore Shrimp Season.....	963
Fishing Closure.....	963
Fishing Closure, Portion of Eastern Louisiana.....	964
Shrimp Season Closure, Portion of Zone 1 Including Breton and Chandeleur Sounds .....	964
Special Shrimp Season Opening, Portion of Breton and Chandeleur Sounds.....	965
Special Shrimp Season Closure, Remainder of Zone 1 and All of Zone 2 .....	965
Special Shrimp Season, Zone 2 and Portion of Zone 1 .....	965
Territorial Sea Shrimp Closure and Portion of Zone 3 Opening .....	966
Territorial Sea Shrimp Re-Opening .....	966
<b>III. RULES</b>	
<b>Education</b>	
Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.Chapters 3, 7, 11, 13, 18, 20, 33, and 35) .....	967
<b>Governor</b>	
Board of Louisiana River Pilot Review and Oversight—General Provisions (LAC 46:LXX.Chapters 150 and 152).....	984
Boxing and Wrestling Commission—Boxing and Wrestling Standards (LAC 46:XI.Chapter 1) .....	992
Commission on Law Enforcement and Administration of Criminal Justice—Peace Officer Training (LAC 22:III.4703).....	992
Public Defender Board—Capital Defense Guidelines (LAC 22:XV.Chapter 9) .....	993
<b>Health and Hospitals</b>	
Board of Examiners of Psychologists—Training and Credentials, Certificate of Prescriptive Authority, Supervised Practice, Continuing Education, Licenses, Temporary Licensure, Supervision of Unlicensed Assistants, Disciplinary Action (LAC 46:LXIII. Chapters 3, 4, 7, 8, 9, 10, 11, and 15).....	1005
Bureau of Health Services Financing—Adult Residential Care Providers—Minimum Licensing Standards Dementia Training Requirements (LAC 48:I.6867).....	1008
Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529) .....	1009
Nursing Facilities Admissions (LAC 50:II.501-511, 10146 and 10157) .....	1010
Nursing Facility Minimum Licensing Standards—Dementia Training Requirements (LAC 48:I.9727).....	1013
Office of Aging and Adult Services—Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529).....	1009
Nursing Facilities Admissions (LAC 50:II.501-511, 10146 and 10157) .....	1010
Office of Public Health—Disease Reporting Instructions; Perinatal HIV Exposure Reporting (LAC 51:II.Chapter 1) .....	1014
Preparation and Handling of Seafood for Market (LAC 51:IX. 327, 329 and 331) .....	1016

**Natural Resources**

Office of Conservation—Manifest System—Statewide Order No. 29-B (LAC 43:XIX.545)..... 1017

**Public Safety and Corrections**

Corrections Services—Regulation of Air Traffic (LAC 22:I.105)..... 1017

Gaming Control Board—Accounting Regulations (LAC 42:VII.2707, 2715, and 2723; IX.2707, 2715, 2717, and 2723; and XIII.2707, 2717, and 2723)..... 1018

Office of the Fire Marshal, Code Enforcement and Building Safety—Industrialized Buildings (LAC 55:V.Chapter 27)..... 1020

**Revenue**

Policy Services Division—Limited Local Sales Tax Exemption for Cancer and Related Chemotherapy Prescription Drugs (LAC 61:I.4401)..... 1028

**Social Services**

Office of Community Services—Residential Licensing (LAC 67:V.6709)..... 1029

State Central Registry—Residential Licensing (LAC 67:V.6955)..... 1031

**Transportation and Development**

Professional Engineering and Land Surveying Board—Re-Examinations, Experience, and Licensure Status (LAC 46:LXI.1315, 1501, and 2103)..... 1033

**Wildlife and Fisheries**

Office of the Secretary—Shrimp Packaging Regulations (LAC 76:VII.373)..... 1034

**IV. NOTICES OF INTENT**

**Agriculture and Forestry**

Office of Agricultural and Environmental Sciences—2, 4-d and ULV Malathion/Pyrethroid (LAC 7:XXIII.143).... 1036

**Education**

Board of Elementary and Secondary—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.Chapters 3 - 9, 33, and 37 - 45)..... 1037

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel (LAC 28:CXLVII.Chapters 1-9)..... 1045

Bulletin 741—Louisiana Handbook for School Administrators—Agricultural Education (LAC 28:CXV.2373)..... 1071

Bulletin 741—Louisiana Handbook for School Administrators—Career Options (LAC 28:CXV.2397)..... 1072

Bulletin 741—Louisiana Handbook for School Administrators—Foreign Languages (LAC 28:CXV.2345)..... 1073

Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28:CXV.2377)..... 1074

Bulletin 741—Louisiana Handbook for School Administrators—Technology Education (LAC 28:CXV.2385)..... 1075

Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Nurse (LAC 28:CXXXI.411)..... 1076

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teaching Certificate (LAC 28:CXXXI.906 and 911)..... 1077

Bulletin 746—Louisiana Standards for State Certification of School Personnel—VTIE, CTTIE, and CTTIE-1 Certificates (LAC 28:CXXXI.507 and 511)..... 1079

Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.Chapters 1-11)..... 1081

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Gifted/Talented Students (LAC 28:XLIII.Chapters 11-20)..... 1091

Student Financial Assistance Commission—Scholarship/Grant Programs (LAC 28:IV.1009, 1011, 1013, 1015, and 1017)..... 1110

Tuition Trust Authority—START Savings Program—Miscellaneous Provisions (LAC 28:VI.315)..... 1111

**Environmental Quality**

Office of the Secretary, Legal Affairs Division— Miscellaneous Amendments for NRC Compatibility (LAC 33:XV.102, 328, 713, and 763)..... 1112

**Governor**

Board of Examiners of Certified Shorthand Reporters—Fees (LAC 46:XXI.901)..... 1114

**Health and Hospitals**

Board of Dentistry—Mobile Dentistry; Relicensure of Dentists, Hygienists (LAC 46:XXXIII.312, 313, 314, 1611, 1613 and 1713)..... 1115

Bureau of Health Services Financing—Disproportionate Share Hospital Payments—Mental Health Emergency Room Extensions (LAC 50:V.2711)..... 1119

Laboratory and Radiology Services—Radiology Utilization Management (LAC 50:XIX.4501)..... 1120

Nursing Facilities—Reimbursement Methodology—Rate Determination (LAC 50:VII.1305)..... 1121

Outpatient Hospital Services—Radiology Utilization Management (LAC 50:V.6105)..... 1123

Pharmacy Benefits Management Program—Medication Administration—H1N1 Immunizations (LAC 50:XXIX.123 and 991)..... 1124

Targeted Case Management—Nurse Family Partnership Program—Reimbursement Rate Reduction (LAC 50:XV.10701, 11101 and 11103)..... 1125

<b>Public Safety and Corrections</b>	
Corrections Services—Medical Reimbursement Plan (LAC 22:I.2101, 2103, and 2105) .....	1126
Office of Juvenile Justice—Educational and Work Assignment Experience Incentive Program (LAC 22:I.723) .....	1127
Office of State Police—Motor Vehicle Inspection (LAC 55:III.813).....	1133
State Uniform Construction Code (LAC 55:VI.301).....	1135
<b>Revenue</b>	
Policy Services Division—National Center for Construction Education and Research Apprenticeship Tax Credits (LAC: 61:I.1909) .....	1137
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Physically Challenged Hunters Permit (LAC 76:XIX.105) .....	1138
<b>V. POTPOURRI</b>	
<b>Agriculture and Forestry</b>	
Horticulture Commission—Retail Floristry Examination .....	1143
<b>Health and Hospitals</b>	
Office of Public Health—2009 Louisiana Beach Report .....	1143
Public Hearing—Preventive Health and Health Services Block Grant.....	1143
<b>Natural Resources</b>	
Office of the Secretary—Fishermen’s Gear Compensation Fund—Loran Coordinates .....	1144
Office of Conservation—Orphaned Oilfield Sites.....	1144
Public Hearing—Docket No. ENV 2010-03.....	1146
<b>Revenue</b>	
Policy Services Division—Natural Gas Severance Tax Rate.....	1147
<b>VI. INDEX</b> .....	1148

# Executive Orders

## EXECUTIVE ORDER BJ 10-07

Flags at Half Staff

WHEREAS, a tragic incident occurred on the oil rig Deepwater Horizon, located approximately 40-miles off the Louisiana Coast on April 20th 2010;

WHEREAS, eleven workers are unaccounted for and the Coast Guard discontinued their search;

WHEREAS, the eleven workers were from Louisiana, Mississippi and Texas;

WHEREAS, a number of workers were hurt and several were critically injured;

WHEREAS, the hearts and prayers of all Louisianians are with the families and the victims of the Deepwater Horizon; and

WHEREAS, approximately 35,000 people work in the Gulf of Mexico each day to provide the energy needed to power our country;

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

SECTION 1: As an expression of respect for those unaccounted for workers of the Deepwater Horizon, effective immediately, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Monday, May 3, 2010.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, May 3, 2010, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of April, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1005#109

## EXECUTIVE ORDER BJ 10-08

Emergency Procedures for Conducting State Business

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., and as a result of the Deepwater Horizon oil spill, a state of emergency (Emergency) was declared through Executive Proclamation No. 20 BJ 2010;

WHEREAS, the Emergency has been declared a Spill of National Significance (SONS) and will have

significant consequences on the financial condition of the State, which is already affected by the current budget crisis and the recently declared mid-year deficit;

WHEREAS, the SONS Emergency has the potential to cause unprecedented and extensive damage to the coast of the State of Louisiana, the natural resources of the State, including its land, waters, fish, wildlife, fowl and other biota, and ongoing coastal restoration projects;

WHEREAS, in dealing with the SONS Emergency it is necessary to take cognizance of and comply with all applicable federal laws and regulations;

WHEREAS, the Louisiana Oil Spill Response and Prevention Act, R.S. 30:2451, et seq., authorizes the State Trustees to respond through the unified incident command system with the assistance of the State On Scene Coordinator, and the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with the SONS Emergency, to ensure that preparations of this State will be adequate to respond to the SONS Emergency, and to preserve and protect the natural resources of the State and the lives and property of the citizens of the State; and

WHEREAS, it is necessary to provide flexibility in contracting requirements during the SONS Emergency as state agencies will need to respond rapidly in procuring resources to meet increased public service requirements as well as for rapid action to prevent and mitigate damages to the natural resources of the State.

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

SECTION 1: For procurement and contracting necessitated by the SONS Emergency, strict compliance with R.S. 39:1481, et seq., and R.S. 39:1551, et seq., shall not be required. However, all state agencies shall comply with the following conditions:

A. A cabinet official appointed by the Governor, or a statewide elected official, or the equivalent position in higher education, must determine that the failure to strictly comply with the statutory restriction is necessary due to the SONS Emergency.

B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance with procurement procedures, maintaining copies of all documentation. Documentation should specify that the purchase relates to the SONS Emergency, and, if so, whether the request has been authorized in accordance with a Non-Federal Agency Pollution Removal Funding Authorization (PRFA). All documentation must be maintained and available for audit and reimbursement purposes.

C. All state departments, agencies, and institutions of higher education anticipating costs associated with the SONS Emergency are to submit a Non-Federal Agency PRFA with an estimate of costs for a minimum of thirty (30)

days, as described and required by the authorized reimbursement process, or as that process may from time to time be amended.

D. Upon receipt of an approved funding document, written competitive quotes and/or offers must be obtained whenever possible and agencies must take the necessary steps to assess that fair and equitable pricing is being offered.

E. Performance-based contracting should be used where practical.

F. Statewide contracts should be used where practical.

G. Such emergency contracts should be only for the duration of the SONS Emergency or to allow the agency time to comply with normal competitive bidding requirements if the goods or services will be required for an extended period of time.

H. Copies of contracts which would otherwise require approval by the Office of Contractual Review (OCR) or the Office of State Purchasing (OSP) and the supporting documentation, discussed above and required by the authorized reimbursement process, must be provided to these agencies as soon as possible, but in no event later than thirty (30) days from execution. Additionally, ISIS agencies should enter small purchases into the AGPS/CFMS database as soon as practical. OCS and OSP shall review the contracts and documentation to determine compliance with this Executive Order.

I. Payments to contractors should be made only after verification that all goods and services have met contract requirements.

SECTION 2: The Inspector General is directed and authorized to monitor those transactions conducted outside

the scope of regulatory statutes, orders, rules and regulations to ensure that those transactions are directly related to the SONS Emergency and are prudently handled, and, if any inappropriate transactions are noted, those situations shall be reported directly to the Governor.

SECTION 3: All cabinet officials appointed by the Governor, statewide elected officials, and the equivalent positions in higher education are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating services as necessary in connection with the SONS Emergency.

SECTION 4: All available resources of state government should be utilized as reasonably necessary to cope with this SONS Emergency.

SECTION 5: This Order is effective upon signature and shall be made applicable May 6, 2010, and continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of May, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1005#110

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences

Pesticide 2, 4-D  
(LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203, the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following rules governing the use of the pesticide 2, 4-D and products containing 2, 4-D (collectively referred to hereafter as "2,4-D.")

2, 4-D is an efficient and effective pesticide in the control of certain pests in agricultural crops. Restrictions on the application of 2, 4-D is necessary to prevent drift on to non-target areas and harm to other crops and vegetation. The current restrictions in the permanent rules and regulations do not allow for the use of 2, 4-D on rice crops grown in certain areas of Allen and Evangeline Parish. The current restriction subjects the rice crops in these areas to crop pests which can destroy the rice crops in those areas or severely limit the amount of rice harvested. Such destruction or reduction of the rice crops in those areas will imperil the livelihood of the rice farmers producing those crops and adversely affect the agricultural economies of those parishes and the welfare of the citizens of those parishes.

The commissioner has, therefore, determined that this Emergency Rule implementing restrictions on the application of 2, 4-D are necessary to prevent an imminent peril to the public health, welfare, and safety of Louisiana citizens. This Rule becomes effective on April 1, 2010 and will remain in effect 120 days.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides Subchapter I. Regulations Governing Application of Pesticides

#### §143. Restrictions on Application of Certain Pesticides

A. - O.2. ...

3. 2, 4-D or products containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 1 and May 1 in the following parishes:

i. Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, & St. Landry (North of U.S. Highway 190);

ii. applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial

or private applicators between May 1 and August 1, in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of Deer Farm Road and Carrier Road, north of U.S. Highway 190 between U.S. Highway 165 and Castor Creek in Allen Parish and south of LA Highway 104, north of US Highway 190 and west of LA Highway 13 in Evangeline Parish, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:

Mike Strain, DVM  
Commissioner

1005#006

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences

ULV Malathion/Pyrethroid (LAC 7:XXIII.143)

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), specifically R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs. The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) of Malathion and a ULV pyrethroid application (tank mixed) will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana agricultural producers thereby creating an imminent peril to the public welfare of Louisiana citizens.

The commissioner has, therefore, determined that this Emergency Rule is necessary to prevent an imminent peril to the public welfare. This Emergency Rule becomes effective at sunrise on June 1, 2010 and shall remain in effect for 120 days, until sunrise on September 29, 2010.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XXIII. Pesticide**

#### **Chapter 1. Advisory Commission on Pesticides**

#### **Subchapter I. Regulations Governing Application of Pesticides**

#### **§143. Restrictions on Application of Certain Pesticides**

A. - O.5.b. ...

P. An Ultra Low Volume (ULV) Malathion and a ULV pyrethroid insecticide (tank mixed) may be applied to control plant bugs in cotton only between sunrise on June 1, 2010 and sunrise on September 29, 2010 subject to the following:

a. applications shall be made at no less than 7 days intervals at an application rate not to exceed the individual pesticide product labels and with no other dilutions or tank mixes.

b. each application shall be reported by the commercial applicator, in writing and within 24 hours of the application, to the appropriate Boll Weevil Eradication Program District Office by the farmer, agricultural consultant or owner/operator. The report shall include the names and addresses of the farmer, agricultural consultant (if appropriate), owner/operator and applicator; the department's applicator number; the field name or number; the number of acres treated; the pesticide product rates; the WPS re-entry interval; the EPA registration number and total amount of each pesticide applied; the application date and time; and the wind speed and direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:

Mike Strain, DVM  
Commissioner

1005#004

### **DECLARATION OF EMERGENCY**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

Scholarship/Grant Programs—Rockefeller  
State Wildlife Scholarship  
(LAC 28:IV.Chapter 11)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend

and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

This rulemaking modifies the Rockefeller State Wildlife Scholarship Program beginning with awards made for the 2010-2011 academic year by changing the program from a loan forgiveness program to a scholarship program, increasing the award amounts, and changing the eligibility requirements for receipt of the scholarship.

An Emergency Rule is necessary to implement changes to the scholarship/grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that the Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective May 4, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG10115E)

#### **Title 28**

### **EDUCATION**

#### **Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs**

#### **Chapter 11. Rockefeller State Wildlife Scholarship**

#### **§1101. General Provisions**

A. - A.3. ...

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 LASFAC 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. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 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:

### **§1103. Establishing Eligibility**

A. - A.4.b. ...

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 LASFAC 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. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 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:

#### **§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. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 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:

#### **§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 (LASFAC-Form RS02), by completing the form and returning it to LASFAC 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 LASFAC 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. 17:3021-3036.

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), LR 36:

#### **§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. - D.2. ...

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 24:640 (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:

George Badge Eldredge  
General Counsel

1005#046

### **DECLARATION OF EMERGENCY**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS  
(LAC 28:IV.703 and 803)

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

This rulemaking identifies courses that have been determined to be equivalent to TOPS and TOPS-Tech core curriculum courses by the Board of Elementary and Secondary Education, the Board of Regents and this Commission and adds these courses to the list of courses that may be completed to satisfy the TOPS and TOPS-Tech core curriculum requirements.

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

This Declaration of Emergency is effective May 4, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG10116E)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education**

**Scholarship and Grant Programs**

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

**§703. Establishing Eligibility**

A. - A.5.a.ii.(a). . . .

(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 II[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
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 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III* Advanced Math – Pre-Calculus** Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com

Core Curriculum Course	Equivalent (Substitute) Course
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math – Pre-Calculus was formerly referred to as Advanced Mathematics II.	
***Advanced Math – Functions and Statistics was formerly referred to as Advanced Mathematics II	

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

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

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

**Chapter 8. TOPS-Tech Award  
§803. Establishing Eligibility**

A. - A.6.a.iii. . . .

b. 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

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;

A.7. - B.4.b.ii. . . .

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 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:

George Badge Eldredge  
General Counsel

1005#045

## DECLARATION OF EMERGENCY

### Office of the Governor Crime Victims Reparation Board

#### Eligibility for Reparations (LAC 22:XIII.301)

The following amendment is published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 40:2401 et seq., the Crime Victims Reparations Act which allows the Crime Victims reparations board to promulgate rules necessary to carry out its business or the provision of Chapter 47. This rule will replace the current rule and clarifies the process used by the board to deny or reduce an application for reparations and is effective May 2, 2010.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XIII. Crime Victims Reparations Board

#### Chapter 3. Eligibility and Application Process

#### §301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

##### 1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

i. the victim was convicted, or serving a sentence for a felony offense committed within five years prior or subsequent to the date of victimization.

a.ii. - g. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009), LR 36:

Lamarr Davis  
Chairman

1005#041

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Veterinary Medicine

#### Temporary Registration during a Declared Emergency (LAC 46:LXXXV.311)

The Department of Health and Hospitals, Board of Veterinary Medicine (Board) has adopted this Emergency Rule, effective May 4, 2010, in accordance with the provisions of the LA Administrative Procedure Act, R.S.

49:950 et seq., and the LA Veterinary Practice Act, R.S. 37:1518A(9). The Emergency Rule is to remain in effect for a period of 120 days (or until such maximum time as allowed by LA law), or until adoption of the final Rule, whichever occurs first.

The board has developed and adopted this emergency rule clarifying and implementing the regulatory requirements for the issuance of temporary registrations to qualified out of state veterinarians with unique veterinary expertise in the care of free-ranging migratory birds, marine mammal, sea turtles, and other unspecified animals affected by the recent oil spill in Louisiana in keeping with its function as defined by the State Legislature in the Veterinary Practice Act.

The immediate clarification and implementation of the requirements for qualified out of state veterinarians who are operating as agents of the US Fish and Wildlife Service and/or National Oceanic and Atmospheric Administration, or their affiliated organizations, under the Federal permits issued by these respective agencies, regarding free-ranging migratory bird rehabilitation, marine mammals, sea turtles, and other unspecified animals, and related matters, are in the best interest for the protection of the public health and safety.

This Emergency Rule does not allow out of state veterinarians, who do not meet the specific and express qualifications set forth in the rule, to provide veterinary services in Louisiana at this time.

This Emergency Rule does not limit or adversely impact the practices of Louisiana veterinarians to provide veterinary services pursuant to their licensed authority in this state.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarian

#### Chapter 3. License Procedures

A. The Governor of Louisiana issued a Declaration of a Public Emergency (effective on or about April 29, 2010) regarding the Deepwater Horizon oil spill in the Gulf of Mexico and its imminent effect. The oil is migrating towards Louisiana and is anticipated to have a devastating impact on the coastal parishes of our state, as well as the shoreline of other Gulf states.

B. This Emergency Rule is necessary to address the needs of the particular declared emergency or disaster at issue.

C. The LBVM exercises its legal authority pursuant to the LA Veterinary Practice Act, R.S. 37:1518A(9), and adopts this Emergency Rule thereby granting temporary registration for a period of time not to exceed a period of 120 days (or until such maximum time as allowed by LA law), or until adoption of the final Rule, whichever occurs first, to out of state veterinarians who meet the specific and express qualifications set forth in this Rule.

D. Accordingly, the following requirements and/or any other requirements required by the board for temporary registration of qualified out of state veterinarians are imposed which more properly address the needs of the particular declared emergency or disaster as set forth herein.

E. A veterinarian not licensed in Louisiana, but currently licensed, in good standing, in a state jurisdiction of the United States may provide veterinary services needed in response to the oil spill if:

1. the veterinarian has a current permit with the US Fish and Wildlife Service and/or the National Oceanic and Atmospheric Administration, or is operating under a Federal permitted affiliated organization, regarding free-ranging migratory bird rehabilitation, marine mammals, sea turtles, and other unspecified animals, affected by the recent oil spill in Louisiana;

2. the veterinarian has photo identification and a license to verify a current license in a state jurisdiction of the United States;

3. the veterinarian properly registers with the LA board providing the documentation set forth in Paragraphs 1 and 2 above;

4. the veterinarian is engaged in a legitimate relief effort during the emergency period at sites specified by the LA Department of Wildlife and Fisheries, and/or the LA Department of Agriculture, Office of the State Veterinarian (LA Incident Command Central), and provides satisfactory documentation to the board that he will be providing veterinary services at such sites specified by these State agencies; and

5. the veterinarian shall comply with the LA Veterinary Practice Act, board's rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability.

F. All out of state veterinarians licensed, in good standing, in other state jurisdictions of the United States shall submit a copy of their respective license, photograph identification, and current permit issued by the US Fish and Wildlife Service and/or National Oceanic and Atmospheric Administration as required by this emergency rule, as well as other requested information, to the LA Board of Veterinary Medicine office for registration with this agency.

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 36:

Wendy Parrish  
Executive Director

1005#052

## DECLARATION OF EMERGENCY

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

#### Adult Dentures Program Denture Replacement and Reline Limits (LAC 50:XXV.503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXV.503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service

limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing adult denture services in LAC 50:XVII under the Durable Medical Equipment Program and repromulgated these provisions as LAC 50:XXV Chapters 1-7 (*Louisiana Register*, Volume 31, Number 7).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau amended the provisions of the July 20, 2005 Rule governing the Adult Denture Program to extend the time period allowed for denture replacements and relines (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Adult Dentures Program to extend the time period for denture replacements and relines.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXV. Adult Dentures

#### Chapter 5. Covered Services

#### §503. Denture Replacement and Denture Reline

A. Effective for dates of service on or after January 22, 2010, only one complete or partial denture per arch is allowed in an eight-year period. The eight-year time period begins from the date that the previous complete or partial denture for the same arch was delivered. A combination of two complete or partial denture relines per arch or one complete or partial denture and one reline per arch is allowed in an eight-year period, as prior authorized by the bureau or its designee.

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, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#075

## DECLARATION OF EMERGENCY

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

#### Ambulatory Surgical Centers Reimbursement Rate Reduction (LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing ambulatory surgical centers and amends LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the April 20, 1977 Rule governing ambulatory surgical services and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates as a result of a budgetary shortfall in state fiscal year 2009. These provisions were promulgated in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 36, Number 2). The department also determined that it was necessary to repeal the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 5, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 6, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the provisions governing the reimbursement methodology for ambulatory surgical centers to adjust the reimbursement rate reduction.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

##### Subpart 11. Ambulatory Surgical Centers

##### Chapter 75. Reimbursement

##### §7503. Reimbursement Methodology

A. – C. ...

D. Effective for dates of service on or after February 5, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 5 percent of the rate in effect on February 4, 2010.

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 35:1889 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#076

## DECLARATION OF EMERGENCY

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

#### Disproportionate Share Hospital Payments Low Income and Needy Care Collaboration (LAC 50.V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt LAC.V.2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals

that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2010 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of uninsured individuals by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective May 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that participate in the Low Income and Needy Care Collaboration.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Medical Assistance Program—Hospital Services**

##### **Subpart 3. Disproportionate Share Hospital Payments**

#### **Chapter 25. Disproportionate Share Hospital Payment Methodologies**

##### **§2503. Disproportionate Share Hospital Qualifications**

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Chapter 27. Qualifying Hospitals**

##### **§2713. Low Income and Needy Care Collaboration**

A. Definitions

*Low Income and Needy Care Collaboration Agreement*—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the

department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. 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. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#077

## DECLARATION OF EMERGENCY

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

#### Disproportionate Share Hospital Payments Non-Rural Community Hospitals (LAC 50.V.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to amend the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2010 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective May 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-rural community hospitals.



## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Medical Assistance Program—Hospital Services

##### Subpart 3. Disproportionate Share Hospital Payments

##### Chapter 27. Qualifying Hospitals

##### §2701. Non-Rural Community Hospitals

A. ...

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 10 of the 2009 Regular Session of the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows:

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

C.5. - E. ...

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$35,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2010 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$12,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 3.5 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by:

a. Dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric unit qualifying uninsured days and multiplying by \$7,000,000.

b. Dividing each qualifying freestanding psychiatric hospital's uninsured days by the sum of all qualifying freestanding psychiatric hospital qualifying uninsured days and multiplying by \$5,000,000.

H. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#078

### DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program—Reimbursement Rate Reduction  
(LAC 50:XV.6905)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the

Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the allocation of additional funds during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services covered under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services, discontinue the lifetime service limits for certain endodontic procedures and provide clarification regarding covered services (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to reduce the reimbursement fees for dental services in the EPSDT Dental Program (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing EPSDT dental services to reduce the reimbursement fees.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 5. Early and Periodic Screening,**

#### **Diagnosis and Treatment**

#### **Chapter 69. Dental Services**

#### **§6905. Reimbursement**

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for diagnostic oral evaluation services;
2. 70 percent for the following periodic diagnostic and preventive services:
  - a. radiographs—periapical, first film;
  - b. radiograph—periapical, each additional film;
  - c. radiograph—panoramic film;
  - d. prophylaxis—adult and child;
  - e. topical application of fluoride, 0-15 years of age (prophylaxis not included); and

f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age); and

3. 65 percent for the remainder of the dental services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#079

### **DECLARATION OF EMERGENCY**

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

End Stage Renal Disease Facilities  
Reimbursement Rate Reduction  
(LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for end stage renal disease (ESRD) facilities to

reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to further reduce the reimbursement rates for services rendered by end stage renal disease facilities (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for end stage renal disease facilities to further reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH – MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

#### **Subpart 9. End Stage Renal Disease Facilities**

#### **Chapter 69. Reimbursement**

#### **§6901. Non-Medicare Claims**

A. – C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSD facilities shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:

#### **§6903. Medicare Part B Claims**

A. – C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSD facilities for Medicare Part B claims shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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 35:1891 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#080

## **DECLARATION OF EMERGENCY**

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

#### **Family Planning Waiver Reimbursement Rate Reduction (LAC 50:XXII.2701)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXII.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement a family planning research and demonstration project under the authority of a Section 1115 waiver (*Louisiana Register*, Volume 32, Number 8). This waiver provides family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level.

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to reduce the reimbursement rates paid for family planning waiver services (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the Family Planning Waiver to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXII. 1115 Demonstration Waivers**

#### **Subpart 3. Family Planning Waiver**

#### **Chapter 27. Reimbursement**

#### **§2701. Reimbursement Methodology**

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement rates for services provided in the

Family Planning Waiver shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#081

## **DECLARATION OF EMERGENCY**

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

### **Office for Citizens with Developmental Disabilities**

#### **Home and Community-Based Services Waivers Children's Choice Reimbursement Rate Reduction (LAC 50:XXI.12101)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the reimbursement

methodology for the Children's Choice Waiver to clarify the family training service description and the components of this service that qualify for Medicaid payment (*Louisiana Register*, Volume 35, Number 9). The final Rule was published on February 20, 2010 (*Louisiana Register*, Volume 36, Number 2).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for the Children's Choice Waiver in order to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the provisions of the January 22, 2010 Emergency Rule to revise the formatting as a result of the publication of the February 20, 2010 final Rule. This action is being taken to ensure that these provisions are published in a clear and concise manner.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions of the January 22, 2010 Emergency Rule governing the reimbursement methodology for the Children's Choice Waiver.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community-Based Services Waivers**

##### **Subpart 9. Children's Choice**

##### **Chapter 121. Reimbursement**

##### **§12101. Reimbursement Methodology**

A. - B.4.j.iv. ...

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Children's Choice Waiver services shall be reduced by 4.75 percent of the rates on file as of January 21, 2010.

1. Support coordination services and environmental accessibility adaptations shall be excluded from this rate reduction.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

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

Alan Levine  
Secretary

1005#083

## DECLARATION OF EMERGENCY

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

#### Office for Citizens with Developmental Disabilities

#### Home and Community-Based Services Waivers Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Supports Waiver to implement a wage enhancement payment to providers for direct support professionals and amended the service provisions to include support coordination as a covered service (*Louisiana Register*, Volume 34, Number 4).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the Supports Waiver to reduce the reimbursement rates.

#### Title 50

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

#### Subpart 5. Supports Waiver

#### Chapter 61. Reimbursement Methodology §6101. Reimbursement Methodology

A. - J. ...

K. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Supports Waiver services shall be reduced by 5.35 percent of the rates on file as of January 21, 2010.

1. Support coordination services and personal emergency response system (PERS) services shall be excluded from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

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

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

Alan Levine  
Secretary

1005#084

## DECLARATION OF EMERGENCY

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

#### Home Health Program Nursing and Home Health Aide Services Reimbursement Rate Reduction (LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing nursing and home health aide services covered under the Home Health Program, and amends LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed all prior Rules governing the reimbursement of home health services and adopted provisions which established a

prospective reimbursement methodology for home health services and required prior authorization for medically necessary supplies used in the delivery of a home health service (*Louisiana Register*, Volume 22, Number 3). As a result of a budgetary shortfall, the reimbursement methodology for skilled nursing services was amended to establish a separate reimbursement rate when the nursing service is performed by a licensed practical nurse (*Louisiana Register*, Volume 27, Number 2).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for home health services to reduce the reimbursement rates paid for intermittent nursing and home health aide services (*Louisiana Register*, Volume 36, Number 2). The department determined that it was necessary to repeal the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for home health services to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 9, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 10, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement of nursing and home health aide services covered under the Home Health Program to adjust the reimbursement rate reduction.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIII. Home Health**

#### **Subpart 1. Home Health Services**

#### **Chapter 7. Reimbursement Methodology**

#### **§701. Nursing and Home Health Aide Services**

A. - A.4. ...

B. Reimbursement for intermittent nursing services and home health aide services is a prospective maximum rate per visit.

1. A separate reimbursement rate is established for nursing services at 80 percent of the rate in effect on January 31, 2000 when the nursing services are performed by a licensed practical nurse (LPN).

2. The rate in effect on January 31, 2000 continues to be paid when the nursing service is performed by a registered nurse (RN).

3. Effective for dates of service on or after February 9, 2010, the reimbursement rates for intermittent nursing services (performed by either a RN or LPN) and home health aide services shall be reduced by 5 percent of the rates in effect on February 8, 2010.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Alan Levine  
Secretary

1005#085

### **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Children's Specialty Hospitals  
(LAC 50:V.909 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.909 and §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals and implemented prospective per diem rates for various hospital peer groups (*Louisiana Register*, Volume 20, Number 6). Separate peer group payment rates were established for certain specialty hospital services rendered in the general acute care setting. Children's hospitals were categorized as a specialty hospital within the acute care general hospital peer group.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the June 1994 Rule governing inpatient hospital services to revise the reimbursement methodology for children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is necessary to promote the health and welfare of children who are in critical need of inpatient specialty services.

Effective May 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by children's specialty hospitals.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospitals**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter A. General Provisions**

**§909. Children's Specialty Hospitals**

A. In order to receive Medicaid reimbursement for inpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. has a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Subchapter B. Reimbursement Methodology**

**§967. Children's Specialty Hospitals**

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1005#062

**DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Major Teaching Hospitals  
(LAC 50:V.1333)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.1333 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5). The

Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department now proposes to amend the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on.

This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the October 1, 2009 Emergency Rule governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospitals**

#### **Chapter 13. Teaching Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§1333. Major Teaching Hospitals**

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must:

- a. be designated as a major teaching hospital by the department in state fiscal year 2009;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service; and
- c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly and shall be calculated using the Medicaid paid days for service dates in state fiscal year 2009 serving as a proxy for SFYs 2010 and 2011 service dates.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for the remainder of the state fiscal year in the event that the maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#067

### **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Reduction  
(LAC 50:V.953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing inpatient hospital services and amends LAC 50:V.953, §955, §959, and adopts §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act, and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for inpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume



35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for inpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009 Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to further reduce the reimbursement rates for inpatient hospital services (*Louisiana Register*, Volume 36, Number 1). The department subsequently determined that it was necessary to repeal the January 22, 2010 Emergency Rule in its entirety and amend the provisions governing the reimbursement methodology for inpatient hospitals to adjust the rate reduction for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 3, 2010 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 4, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rate reduction.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospitals**

##### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

##### **§953. Acute Care Hospitals**

A. – G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per

diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU).

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.R. 40:1300 shall be exempt from this reduction.

2. – 2.b. Repealed.

N. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

O. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to private hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

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

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

### §955. Long Term Hospitals

A. - C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 2. Repealed

F. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

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

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

**§959. Inpatient Psychiatric Hospital Services**

A. - C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b.Repealed.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

H. Effective for dates of service on or after February 3, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

I. Effective for dates of service on or after February 3, 2010, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

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

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

**§967. Children's Specialty Hospitals**

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges

for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.A.-C above shall be reduced by 5 percent. Final payment shall be the lesser of 95 percent of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 95 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

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, amended LR 36:

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

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

Alan Levine  
Secretary

1005#086

## DECLARATION OF EMERGENCY

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Supplemental Payments  
(LAC 50:V.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the provisions governing the reimbursement methodology for non-rural, non-state (private) hospitals to increase the Medicaid reimbursement rates paid for inpatient hospital services, including non-rural, non-state acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units, free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 34, Number 5). In May 2008, the department also amended these provisions to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5). As a result of a budgetary shortfall in state fiscal year 2009, the bureau promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau promulgated an Emergency Rule to further reduce the reimbursement rates paid for inpatient hospital services in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to provide a supplemental Medicaid payment to non-rural, non-state hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the department repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume

35, Number 8). In October 2009, the department amended the provisions of the July 1, 2009 Emergency Rule in order to incorporate the provisions of the August 4, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 10). The department also amended the provisions governing reimbursements to inpatient hospitals in order to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department promulgated an Emergency Rule in order to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12). The department amended the provisions of the October 20, 2009 Emergency Rule to incorporate the provisions of the December 20, 2009 Emergency Rule and to reorganize these provisions in the appropriate place in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 18, 2010 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services. This action will also assure that these provisions are promulgated in the appropriate location in the LAC.

Effective June 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services provided by non-rural, non-state hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospitals**

### **Chapter 9. Non-Rural, Non-State Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§953. Acute Care Hospitals**

A. – G.3. ...

H. Neonatal Intensive Care Units (NICU).

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU).

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty

group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §955. Long Term Hospitals

A. - B.2c ...

C. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

D. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §959. Inpatient Psychiatric Hospital Services

A. - B.1. ...

C. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b.Repealed.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§961. Inpatient Hospital Rehabilitation Services**

A. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §955.D payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the hospital intensive neurological rehabilitation care unit must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible rehabilitation unit shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§963. Public Hospitals**

A. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum

aggregate payments to all qualifying hospitals in this group (along with §953.F and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

B. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §959.D payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state public hospitals that do not qualify for payment under §961.A provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles MSA, had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

C. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.H and §959.E payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state public hospitals that do not qualify for payment under §961.A or §961.B may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux) and had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1005#087

## DECLARATION OF EMERGENCY

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

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

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

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

for inpatient psychiatric services for inclusion in the *Louisiana Administrative Code*.

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

Effective May 27, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing pre-admission certification for inpatient hospital services.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 1. Inpatient Hospitals

#### Chapter 3. Pre-Admission Certification

##### §301. General Provisions

A. - F.2. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:66 (January 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#088

## DECLARATION OF EMERGENCY

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

Laboratory and Radiology Services  
Reimbursement Rate Reduction  
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states:



“The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which reduced the reimbursement rates paid for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 3) and clarified the reimbursement methodology for radiation therapy centers (*Louisiana Register*, Volume 35, Number 6). These provisions were published as a final Rule on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIX. Other Services**

#### **Subpart 3. Laboratory and Radiology**

#### **Chapter 43. Billing and Reimbursement**

#### **Subchapter B. Reimbursement**

#### **§4329. Laboratory Services (Physicians and Independent Laboratories)**

A. – F. ...

G. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

H. Effective for dates of service on or after January 22, 2010, the reimbursement rates for laboratory services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:

#### **§4334. Radiology Services**

A. – E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

G. Effective for dates of service on or after January 22, 2010, the reimbursement rates for radiology services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

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 35:1897 (September 2009), amended LR 36:

#### **§4335. Portable Radiology Services**

A. – C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for portable radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

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:

#### **§4337. Radiation Therapy Centers**

A. – C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.42 percent of the fee amounts on file as of January 21, 2010.

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 35:1898 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#089

## DECLARATION OF EMERGENCY

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

#### Medicaid Eligibility—Express Lane Eligibility (LAC 50:I.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 407 of the 2007 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to utilize income determinations made by the Food Stamp Program, Women, Infants and Children (WIC) Program or the National School Lunch Program to determine income eligibility for the Medicaid Program or the Louisiana Children's Health Insurance Program (LaCHIP) as soon as federal legislation allowing the same was enacted.

Federal regulations in the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 established provisions to allow states to rely on a finding from an Express Lane agency to more effectively reach out and enroll eligible, but uninsured, children in the Medicaid Program. Express Lane eligibility is an administrative streamlining option that uses data from other government agencies to identify, enroll and retain children who are eligible for Medicaid or the Children's Health Insurance Program (CHIP).

In compliance with Act 407 and CHIPRA of 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule that adopted provisions which established Express Lane eligibility in order to expedite identification and enrollment of uninsured children in the Medicaid/LaCHIP Program (*Louisiana Register*, Volume 35, Number 10). The department amended the October 10, 2009 Emergency Rule to clarify which agencies' data will be used for Express Lane eligibility determinations and to add additional agencies which may provide data (*Louisiana Register*, Volume 36, Number 1). The department now proposes to amend the January 20, 2010 Emergency Rule to further clarify which agencies' eligibility findings will be utilized in Express Lane eligibility determinations. This action is being taken to promote the health and well-being of children by increasing access to health care coverage.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 20, 2010 Emergency Rule governing Express Lane eligibility determinations.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part III. Eligibility

#### Subpart 1. General Administration

#### Chapter 11. Express Lane Eligibility

##### §1101. General Provisions

A. The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, Public Law No. 111-3, established provisions which allowed states to rely on a finding from an Express Lane agency to more effectively reach out and enroll eligible but uninsured children in the Medicaid Program or the Children's Health Insurance Program (CHIP).

B. Express Lane eligibility is an administrative streamlining option that uses data from other government agencies to identify, enroll and retain children who are eligible for Medicaid or CHIP.

C. Express Lane eligibility shall be utilized for enrollment of uninsured children under the age of 19.

D. These provisions shall not apply to eligibility determinations made after September 30, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### §1103. Eligibility Determinations

A. The department shall rely on the findings from an Express Lane agency to satisfy one or more of the eligibility components (regardless of any differences in the income budget unit, disregards, deeming of income or other methodologies) required to make an eligibility determination.

1. An Express Lane agency is a public agency that is determined by the department to be capable of making the determinations of one or more of the eligibility requirements defined in the Medicaid State Plan. Express Lane agencies are need-based programs/agencies.

B. The department shall utilize eligibility findings from Express Lane agencies that administer the:

1. Food and Nutrition Act of 2008 (Supplemental Nutrition Assistance Program/SNAP, also known as the Food Stamp Program);

2. Richard B. Russell National School Lunch Act (Free Lunch Program); or

3. Child Nutrition Act of 1966 (Women, Infants and Children (WIC) Program);

4. Temporary Assistance for Needy Families (TANF) under Title IV-A;

5. Head Start Act;

6. state program funded under Title IV-D (Child Support Enforcement Services/SES);

7. Child Care and Development Block Grant Act of 1990;

8. Stewart B. McKinney Homeless Assistance Act, the U. S. Housing Act of 1937; and

9. Native American Housing Assistance and Self-Determination Act of 1996.

C. Verification requirements for citizenship or nationality status are applicable to Express Lane eligibility determinations.

D. If a finding from an Express Lane agency results in a determination that a child does not satisfy an eligibility requirement for Medicaid or CHIP, the department shall determine eligibility for assistance using its regular procedures.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§1105. Automatic Enrollment**

A. The department may initiate and determine Medicaid eligibility based on data from sources other than the child (or the child's family) without an application form; however, a child can only be automatically enrolled for coverage if the:

1. child or family consents to being enrolled through affirmation and signature on an Express Lane agency application; and

2. department has informed the parent, guardian or custodial relative of the:

a. services that will be covered;

b. appropriate methods for using such services;

c. premium or other cost-sharing charges that apply (if applicable);

d. medical support obligations created by enrollment (if applicable); and

e. actions the parent, guardian or relative must take to maintain enrollment and renew coverage.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§1107. Disclosure of Eligibility Data**

A. Notwithstanding any other provisions of law, Express Lane agencies in possession of data directly relevant to Express Lane eligibility determinations shall convey such data to the department and shall ensure that the individual (or his parent, guardian, caretaker relative, authorized representative) whose circumstances are described in the data has either provided consent to disclosure, or has not objected to disclosure.

1. Such individuals shall be provided with advance notice of disclosure and a reasonable opportunity to object to the disclosure of their information.

B. Express Lane agency sources of data shall include, but is not limited to, the following:

1. eligibility files;

2. unemployment compensation benefits;

3. wages and income information;

4. Social Security Administration and Internal Revenue Service information;

5. employer wage reports to a state agency;

6. vital records information about births in any state;

or

7. third party health insurance information.

C. Improper Disclosure Penalties

1. Civil Monetary Penalty. A private entity that publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information obtained for the purposes of Express Lane eligibility may be subject to civil monetary penalties for each unauthorized

publication or disclosure, pursuant to §1942 of Title XIX of the Social Security Act.

2. Criminal Penalty. A private entity that willfully publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information under this section shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both, for each unauthorized publication or disclosure.

3. The limitations and requirements that apply to Express Lane eligibility data disclosure shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under federal law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#068

### **DECLARATION OF EMERGENCY**

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

Medicaid Eligibility  
Medicare Savings Programs  
(LAC 50:III.2325, 10703 and 10705)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2325 and §10703 and amends §10705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the state and federal requirements governing the determination of eligibility of persons applying for coverage under the Qualified Medicare Beneficiary, Qualified Disabled and Working Individuals, Specified Low Income Medicare Beneficiary and the Qualified Individual-1 Programs as identified under Title XIX of the Social Security Act. These are commonly referred to as the Medicare Savings Programs (MSP). Medicaid coverage under these programs is limited to payment of Medicare premiums, and may pay deductibles and co-insurance. Under Section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive

resource methodologies in determining eligibility for most Medicaid eligibility groups than are used by the related cash assistance programs. The applicant's resources are currently considered in the determination of Medicaid eligibility. Resources are defined as cash assets or assets that can be converted to cash, such as bank accounts, stocks, bonds, automobiles and property.

The Medicare Improvement for Patients and Providers Act (MIPPA) of 2008 modified the provisions of the Medicare Savings Programs in order to increase enrollment and reduce barriers to enrollment. In order to reduce the administrative burden for the Medicaid Program, to align MSP eligibility more closely with the Medicare Part D Low Income Subsidy eligibility and to eliminate financial hardship for individuals, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Medicare Savings Programs to incorporate provisions regarding the submittal of low income subsidy data and to disregard certain assets in the eligibility determination process (*Louisiana Register*, Volume 36, Number 1). The department now proposes to amend the January 1, 2010 Emergency Rule to clarify the provisions governing MSP resource disregards.

This action is being taken to promote the health and welfare of the elderly and individuals with disabilities who could derive benefits through the Medicare Savings Programs and to avoid federal sanctions.

Effective May 6, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medicare Savings Programs.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

### **Chapter 23. Eligibility Groups and Medicaid Programs**

#### **§2325. Medicare Savings Programs**

A. Medical assistance furnished to Qualified Medicare Beneficiaries (QMB), Specified Low Income Beneficiaries (SLMB) and Qualified Individuals (QI) is commonly referred to as the Medicare Savings Programs (MSP). Medicaid coverage under these programs is limited to payment of Medicare premiums, and may pay deductibles and co-insurance.

1. Effective January 1, 2010, with the consent of an individual completing an application for Low Income Subsidy (LIS) benefits, the Social Security Administration will transmit LIS data to Medicaid.

2. Medicaid shall use the data to initiate an application for the individual for benefits under the Medicare Savings Program.

3. The date that the LIS application is filed with the Social Security Administration will be used as the date of application for MSP and for determining the effective date of MSP eligibility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Subpart 5. Financial Eligibility**

#### **Chapter 107. Resources**

#### **§10703. General Provisions**

A. Medicaid utilizes the income and asset methodologies of the Supplemental Security Income (SSI) Program to determine Medicaid eligibility for aged, blind and disabled individuals.

B. Under Section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive income and asset methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance program.

#### **C. Medicare Savings Programs**

1. The following individual's resources shall be considered in determining eligibility for the Medicare Savings Programs:

- a. the applicant/recipient; and
- b. the spouse living in the home with the applicant/recipient.

2. Resource Assessment. The assets test for full Low Income Subsidy (LIS) eligibility is set at three times the SSI asset standard, indexed annually by the increase in the consumer price index.

a. Effective January 1, 2010, the asset limit for all Medicare Savings Programs will be the same as the asset limit for Medicare's Part D full benefit LIS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§10705. Resource Disregards**

A. - B.1. ...

C. Effective January 1, 2010, the following assets shall be disregarded in eligibility determinations for all Medicare Savings Programs:

1. all insurance, regardless of cash surrender value, and
2. all vehicles, regardless of value.

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 35:1899 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#069

## DECLARATION OF EMERGENCY

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

Medical Transportation Program  
Non-Emergency Ambulance Services  
Reimbursement Rate Reduction  
(LAC 50:XXVII.571)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the ground mileage and the ancillary services and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 34, Number 5).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency ambulance services.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part. XXVII. Medical Transportation Program

#### Chapter 5. Non-Emergency Medical Transportation

#### Subchapter D. Reimbursement

#### §571. Non-Emergency Ambulance Transportation

A. – C. ...

D. Effective for dates of service on or after January 22, 2010, the ground mileage and ancillary services reimbursement rates for non-emergency ambulance transportation services shall be reduced by 5 percent of the rate in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#090

## DECLARATION OF EMERGENCY

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

Medical Transportation Program  
Non-Emergency Medical Transportation  
Reimbursement Rate Reduction  
(LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing non-emergency medical transportation to increase the reimbursement rates (*Louisiana Register*, Volume 33, Number 3). As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 5. Non-Emergency Medical Transportation**

#### **Subchapter D. Reimbursement**

#### **§573. Non-Emergency, Non-Ambulance**

##### **Transportation**

A. - B. ...

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#091

#### **DECLARATION OF EMERGENCY**

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

#### **Mental Health Rehabilitation Program Reimbursement Rate Reduction (LAC 50:XV.901)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.901 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S.

49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for mental health rehabilitation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final rule was published in September 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to reduce the reimbursement rates paid for mental health rehabilitation services and to establish service limitations (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to revise the formatting of LAC 50:XV.401-405 and §901 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for mental health rehabilitation services (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to further reduce the reimbursement rates paid for mental health rehabilitation services (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for mental health rehabilitation services to further reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 1. Mental Health Rehabilitation**

#### **Chapter 9. Reimbursement**

#### **§901. Reimbursement Methodology**

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following MHR services shall be reduced by 1.23 percent of the fee amounts on file as of August 3, 2009:

1. counseling;
2. oral medication administration;
3. psychosocial skills training;
4. community supports; and
5. injections.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for parent/family intervention (intensive) services shall be reduced by 17.6 percent of the fee amounts on file as of August 3, 2009.

F. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Mental Health Rehabilitation services shall be reduced by 1.62 percent of the rates on file as of January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#092

## DECLARATION OF EMERGENCY

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

Multi-Systemic Therapy  
Prior Authorization and  
Reimbursement Rate Reduction  
(LAC 50:XV.25305 and 25701)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.25305 and amends §25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the coverage and reimbursement of multi-systemic therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance (*Louisiana Register*, Volume 35, Number 2). As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for multi-systemic therapy to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8).

As a result of a continuing budgetary shortfall, the department determined that it was necessary to amend the provisions governing MST to further reduce the reimbursement rates and to establish prior authorization requirements (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing multi-systemic therapy.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 17. Multi-Systemic Therapy

#### Chapter 253. Services

##### §25305. Prior Authorization

A. Effective for dates of service on or after January 22, 2010, prior authorization is required for services in excess of 244 units or four months.

1. Proof of medical necessity must be submitted in accordance with department guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services financing, LR 36:

#### Chapter 257. Reimbursement

##### §25701. Reimbursement Methodology

A. - A.2. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement rates for multi-systemic therapy services shall be reduced by 5.17 percent of the rates on file as of August 3, 2009.

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 5 percent of the rates on file as of January 21, 2010.

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 35:247 (February 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#093

## DECLARATION OF EMERGENCY

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

#### Nursing Facilities Reimbursement Rate Reduction (LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to increase the reimbursement paid to providers to implement a wage enhancement payment for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the department promulgated an Emergency Rule to reduce the per diem rates and wage enhancement payments made to non-state nursing facilities (*Louisiana Register*, Volume 35, Number 7). In compliance with Act 244 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to implement periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 35, Number 7). The department amended the July 3, 2009 rate reduction Emergency Rule to repeal the per diem rate reduction and continued the wage enhancement reduction (*Louisiana Register*, Volume 35, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rate paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the January 22, 2010 Emergency Rule to clarify the reduction of the per diem rate. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the January 22, 2010 Emergency Rule governing the reimbursement methodology for non-state nursing facilities.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care Services

##### Subpart 1. Nursing Facilities

#### Chapter 13. Reimbursement

##### §1305. Rate Determination

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - D.1.h.Example ...

i. For dates of service on or after July 3, 2009, the facility-specific direct care rate will be adjusted in order to reduce the wage enhancement from \$4.70 to a \$1.30 wage enhancement prior to the case-mix adjustment for direct care staff. The \$1.30 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

i. Effective with the next rebase, on or after July 1, 2010, the wage enhancement will be eliminated.

D.2. - 4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

a. Repealed.

E. ...

F. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-state nursing facilities shall be reduced by 1.5 percent of the per diem rate on file as of January 21, 2010 (\$1.95 per day).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:



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

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

Alan Levine  
Secretary

1005#070

## DECLARATION OF EMERGENCY

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

#### Nursing Facilities Reimbursement Rate Reduction (LAC 50:VII.1305 and 1309)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.1305 and §1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. In the event the department projects that expenditures in the Medical Vendor Program may exceed the funding allocated in the General Appropriations Act, the secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid Program as necessary to control expenditures to the level of funding appropriated by the legislature. Notwithstanding any law to the contrary, the secretary may utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act, the department promulgated an Emergency Rule to reduce the reimbursement rates paid to non-state nursing facilities (*Louisiana Register*, Volume 35, Number 7). The department promulgated an Emergency Rule to amend the July 3, 2009 Emergency Rule to repeal the reduction to the per diem rates of non-state nursing facilities (*Louisiana Register*, Volume 35, Number 10).

This Emergency Rule is being promulgated to continue the provisions of the October 20, 2009 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging the continued participation of non-state nursing facilities in the Medicaid Program.

Effective June 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state nursing facilities.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care Services

##### Subpart 1. Nursing Facilities

#### Chapter 13. Reimbursement

##### §1305. Rate Determination

A. - D.1.h.Example ...

i. For dates of service on or after July 3, 2009, the facility-specific direct care rate will be adjusted in order to reduce the wage enhancement from \$4.70 to a \$1.30 wage enhancement prior to the case-mix adjustment for direct care staff. The \$1.30 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

i. Effective with the next rebase, on or after July 1, 2010, the wage enhancement will be eliminated.

D.2. - 4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

a. Repealed.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### §1309. State-Owned or Operated and Non-State, Government-Owned or Operated Facilities

A. - B.2. ...

C. Repealed.

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 28:1793 (August 2002), amended LR 30:53 (January 2004), LR 31:1596 (July 2005), LR 32:2265 (December

2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#070

## **DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Children's Specialty Hospitals  
(LAC 50:V.5109, 5317, 5517, 5719, 5917 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 51 and §5317, §5517, §5719, §5917 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by small rural hospitals and state-owned hospitals (*Louisiana Register*, Volume 35, Number 5).

The department promulgated and Emergency Rule to amend the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). his Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is necessary to promote the health and welfare of children who are in critical need of outpatient hospital specialty services.

Effective May 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by children's specialty hospitals.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 5. Outpatient Hospitals**

##### **Chapter 51. General Provisions**

##### **§5109. Children's Specialty Hospitals**

A. In order to receive Medicaid reimbursement for outpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. has a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **Chapter 53. Outpatient Surgery**

##### **Subchapter B. Reimbursement Methodology**

##### **§5317. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.
2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5517. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Chapter 57. Laboratory Services**  
**Subchapter B. Reimbursement Methodology**  
**§5719. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Chapter 59. Rehabilitation Services**  
**Subchapter B. Reimbursement Methodology**  
**§5917. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Chapter 61. Other Outpatient Hospital Services**  
**Subchapter B. Reimbursement Methodology**  
**§6119. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#061

**DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals and  
Children's Specialty Hospitals  
Reimbursement Rate Reduction  
(LAC:V.5313, 5317, 5513, 5517, 5713,  
5719, 5913, 5917, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing outpatient hospital services and amends LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §5913, §5917, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published in the *Louisiana Register* on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for outpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In November 2009, the department amended the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, §5513, §5713, §5913 and §6115 as a result of the promulgation of the September 20, 2009 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department

established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates for outpatient hospital services rendered by non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 2). The department subsequently repealed the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for outpatient hospital services to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 3, 2010 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 4, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule and amends the provisions governing the reimbursement methodology for outpatient hospital services to adjust the reimbursement rate reduction.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

##### **Subpart 5. Outpatient Hospitals**

##### **Chapter 53. Outpatient Surgery**

##### **Subchapter B. Reimbursement Methodology**

##### **§5313. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital

and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **§5317. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5513. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5517. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 57. Laboratory Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5713. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for laboratory services rendered during the quarter. Maximum aggregate payments to all

qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5719. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 59. Rehabilitation Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§5913. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

#### **§5917. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

##### **§6115. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010. Final reimbursement shall be at 74.56 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:

**§6119. Children's Specialty Hospitals**

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#095

**DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Major Teaching Hospitals  
(LAC 50:V.6533)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.6533 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for outpatient hospital services rendered by acute care hospitals (*Louisiana Register*, Volume 22, Number 1). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department now proposes to amend the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the October 1, 2009 Emergency Rule governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 5. Outpatient Hospitals**

**Chapter 65. Teaching Hospitals**

**Subchapter B. Reimbursement Methodology**

**§6533. Major Teaching Hospitals**

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to qualifying non-rural, non-state acute care hospitals for outpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must:

- a. be designated as a major teaching hospital by the department in state fiscal year 2009;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service;
- c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service; and
- d. provided at least 20,000 Medicaid outpatient paid visits for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly based on Medicaid paid claims data from service dates in state fiscal year 2009.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for

the remainder of the state fiscal year in the event that the maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#071

## **DECLARATION OF EMERGENCY**

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

Pharmacy Benefits Management Program  
Medication Administration  
H1N1 Immunizations  
(LAC 50:XXIX.123 and 991)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXIX.123 and §991 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the 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 U.S. Department of Health and Human Services (DHHS) renewed the declaration of a public health emergency involving novel influenza A (2009 H1N1) on July 24, 2009. The Centers for Medicare and Medicaid Services (CMS) subsequently provided guidance and technical assistance regarding coverage of vaccine administration and the provision of vaccinations at non-traditional care sites. In response to the renewed declaration and CMS guidance, the Louisiana State Health Officer issued an Emergency Order and Protocol to allow eligible pharmacists to administer influenza vaccinations. The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 35, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 10, 2009 Emergency Rule. This action is being taken to promote the health and

welfare of Medicaid recipients by facilitating access to the H1N1 vaccine.

Effective June 9, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow payment for administration of the H1N1 vaccine.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXIX. Pharmacy**

#### **Chapter 1. General Provisions**

##### **§123. Medication Administration**

A. H1N1 Vaccine Administration. The department shall provide coverage for administration of the H1N1 vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and

2. the pharmacist is Medicaid enrolled.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Chapter 9. Methods of Payment**

##### **Subchapter H. Medication Administration Payments**

##### **§991. Vaccine Administration Fees**

A. Effective for dates of service on and after October 10, 2009, the reimbursement to pharmacies for immunization administration (intramuscular or intranasal) performed by qualified pharmacists, is a maximum of \$15.22. This fee includes counseling, when performed.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine  
Secretary

1005#096

## **DECLARATION OF EMERGENCY**

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

Pregnant Women Extended Services  
Dental Services  
Reimbursement Rate Reduction  
(LAC 50:XV.16107)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states:



“The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Pregnant Women Extended Services Dental Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and clarify the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services provided to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for dental services provided to Medicaid eligible pregnant women.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 13. Pregnant Women Extended Services**

**Chapter 161. Dental Services**

**§16107. Reimbursement**

A. – C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for the comprehensive periodontal evaluation exam;
2. 70 percent for the following diagnostic services:
  - a. intraoral-periapical first film;
  - b. intraoral-periapical, each additional film; and
  - c. panoramic film and prophylaxis, adult; and
3. 65 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
  - a. intraoral, occlusal film;
  - b. bitewings, two films;

- c. amalgam (one, two or three surfaces) primary or permanent;
- d. amalgam (four or more surfaces);
- e. resin-based composite (one, two or three surfaces), anterior;
- f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
- g. resin-based composite crown, anterior;
- h. resin-based composite (one, two, three, four or more surfaces), posterior;
- i. prefabricated stainless steel crown, primary or permanent tooth;
- j. prefabricated resin crown;
- k. periodontal scaling and root planning (four or more teeth per quadrant);
- l. full mouth debridement to enable comprehensive evaluation and diagnosis;
- m. extraction, coronal remnants-deciduous tooth;
- n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
- o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
- p. removal of impacted tooth, soft tissue; and
- q. removal of impacted tooth, partially bony.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), amended LR:36

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

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

Alan Levine  
Secretary

1005#097

**DECLARATION OF EMERGENCY**

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

Professional Services Program  
Anesthesia Services  
Reimbursement Methodology  
(LAC 50:IX.15111 and 15131-15135)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15111 and adopts §§15131-15135 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the

Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNAs) for services rendered to Medicaid recipients (*Louisiana Register*, Volume 35, Number 3). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing anesthesia services to further reduce the reimbursement rates paid to CRNAs (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of state fiscal year 2010 budget reductions, the department repealed the provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to physicians (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to incorporate exclusions to the rate reduction for maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16. This Emergency Rule also revised the formatting of LAC 50:IX.15111 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 35, Number 11). The department subsequently promulgated an Emergency Rule which amended the provisions governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and CRNAs. In addition, the provisions governing anesthesia services were repromulgated, in their entirety, in Subchapter D of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 1). The department now proposes to amend the provisions of the January 22, 2010 Emergency Rule to clarify the language governing formula-based reimbursement. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 22, 2010 Emergency Rule governing the reimbursement methodology for anesthesia services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part IX. Professional Services Program**  
**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**  
**Subchapter D. Anesthesia Services**

**§15111. Anesthesia Services**

A. – D. 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 35:1902 (September 2009), repealed LR 36:

**§15131. General Provisions**

A. The most appropriate procedure codes and modifiers shall be used when billing for surgical anesthesia procedures and/or other services performed under the professional licensure of the physician (anesthesiologist or other specialty) or certified registered nurse anesthetist (CRNA).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§15133. Formula-Based Reimbursement**

A. Reimbursement is based on formulas related to a percentage of the 2009 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a physician shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

C. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a CRNA shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§15135. Flat Fee Reimbursement**

A. Reimbursement for maternity related anesthesia services is a flat fee, except for general anesthesia related to a vaginal delivery which is reimbursed according to a formula.

B. Other anesthesia services that are performed under the professional licensure of the physician (anesthesiologist or other specialty) or CRNA are reimbursed a flat fee based on the appropriate procedure code.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates paid to CRNAs will be reduced by 3.5 percent of the reimbursement as of February 25, 2009.

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates paid for anesthesia services that are performed under the professional licensure of a physician (anesthesiologist or other specialty) shall be reduced by 3.5 percent of the rates in effect on August 3, 2009.

1. Effective for dates of service on or after November 20, 2009, maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16 shall be exempt from the August 4, 2009 rate reduction on anesthesia services performed by a physician (anesthesiologist or other specialty).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#072

## DECLARATION OF EMERGENCY

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

Professional Services Program  
Family Planning Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15141-15143)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.15141-15143 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for family planning services rendered by physicians in the Professional Services Program.

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the Professional Services Program in order to reduce the reimbursement rates for family planning services, and to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 36, Number 2)*. This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for family planning services.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

##### Subchapter E. Family Planning Services

#### §15141. General Provisions (Reserved)

#### §15143. Reimbursement

A. The reimbursement for family planning services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. Fee schedule rates are based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Family planning services are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for family planning services rendered by a physician shall be 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#098

## DECLARATION OF EMERGENCY

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

Professional Services Program  
Physician Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15103 and 15111-15113)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15103 and adopts §§15111-15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to adjust the reimbursement rates. In addition, the bureau repealed the provisions contained in the following rules governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 34, Number 8). As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule to adjust the reimbursement rates paid for physician services (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to incorporate exclusions to the rate reduction for prenatal evaluation and management, and delivery services rendered by physicians (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall, the bureau determined that it was necessary to amend the provisions governing the Professional Services Program in order to further reduce the reimbursement rates paid for physician services (*Louisiana Register*, Volume 36, Number 2). That Emergency Rule also repromulgated the provisions, in their entirety, in Subchapter B of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*. The department now proposes to amend the January 22, 2010 Emergency Rule to clarify the provisions governing reimbursement of physician services rendered to recipients 16 years of age or older. This action is being taken to avoid a budget deficit in the medical assistance programs and to ensure that the provisions are clear.

Effective May 20, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the

provisions of the January 22, 2010 Emergency Rule governing the reimbursement methodology for physician services.

### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

#### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

#### Subchapter B. Physician Services

#### §15103. Physician Services

A. - B.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, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §15111. General Provisions (Reserved)

#### §15113. Reimbursement

A. The reimbursement rates for physician services shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be

increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

E. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

H. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.E.-G shall be increased to the rates in §15113.E.-G.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine  
Secretary

1005#073

## DECLARATION OF EMERGENCY

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

Prosthetics and Orthotics  
Reimbursement Rate Reduction  
(LAC 50:XVII.501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XVII.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 3). These provisions were published in a final Rule on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule which amended the March 7, 2009 Emergency Rule to further reduce the reimbursement rates paid for prosthetic and orthotic devices (*Louisiana Register*, Volume 35, Number 5). As a result of the allocation of additional funds by the legislature to lessen the impact of the state fiscal year 2010 budget reductions, the department repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XVII.501 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for prosthetics and orthotics (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for prosthetics and orthotics to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the provisions of the January 22, 2010 Emergency Rule in order to revise the formatting of LAC 50:XVII.501 to place these provisions in the proper location in the *Louisiana Administrative Code (LAC)*. This action is being taken to ensure that these provisions are appropriately incorporated into the LAC.

Effective May 20, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 22, 2010 Emergency Rule governing the reimbursement methodology for prosthetics and orthotics.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XVII. Prosthetics and Orthotics**

##### **Subpart 1. General Provisions**

##### **Chapter 5. Reimbursement**

##### **§501. Reimbursement Methodology**

A. – D.1. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement for prosthetic and orthotic devices for recipients 21 years of age and older shall be reduced by 4 percent of the fee amounts on file as of August 3, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

F. Effective for dates of service on or after January 22, 2010, the reimbursement for prosthetic and orthotic devices shall be reduced by 5 percent of the fee amounts on file as of January 21, 2010.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), amended LR 36:

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

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

Alan Levine  
Secretary

1005#074

## **DECLARATION OF EMERGENCY**

### **Department of Social Services Office of Family Support**

Supplemental Nutritional Assistance Program (SNAP)  
Iraqi, Afghani Immigrant—Qualified Alien  
(LAC 67: III 1223, 1931, 1932, 1934, 1995, 1999)

The Department of Social Services (DSS), Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the Louisiana Administrative Code (LAC), LAC 67:III, Subpart 2, Chapter 12, Subchapter B, and Subpart 3, Chapter 19, Subchapters D, K, and M. This emergency rule is effective May 10, 2010, upon the signature of the DSS Secretary and shall remain in effect for a period of 120 days.

Pursuant to P.L.111-118, the agency must render to Iraqi and Afghani Special Immigrant Visas (SIVs) the eligibility for federal public benefits to the same extent and for the same time period as refugees.

LAC 67:III, Subpart 2, Section 1223 and Subpart 3, Section 1931 are being amended to include as a qualified alien an Iraqi or Afghani immigrant who has been granted SIV status per a directive from Food and Nutrition Services (FNS) regarding the Supplemental Nutrition Assistance Program (SNAP).

LAC 67:III, Subpart 3, Section 1932 is being repealed to remove the time limitations for certain aliens and Section 1934, Alien Eligibility Criteria, is being added to define alien eligibility criteria and include an Iraqi or Afghani immigrant who has been granted SIV status per a directive from FNS and the Department of Agriculture, Food and Nutrition Services, 7 CFR Part 273 Food Stamp Program: Eligibility and Certification Provisions of the Farm and Rural Investment Act of 2002; Final Rule, Section 273.4.

In accordance with an FNS directive, LAC 67:III, Subpart 3, Section 1995 is being amended to include an indigent alien as an exception to the sponsored alien rule.

LAC 67:III, Subpart 3, Section 1999, is being amended to remove the requirement to send a Notice of Adverse Action when mail is returned from the Post Office as undeliverable per an FNS directive regarding Simplified Reporting (SR) requirements.

Emergency action in this matter is necessary as failure to promulgate the rule in a timely manner could result in the imposition of sanctions or penalties by the United States Department of Agriculture (USDA), Food and Nutrition Service, the governing authority of the Supplemental Nutrition Assistance Program (formerly known as the Food Stamp Program) in Louisiana.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

##### **Subpart 2. Family Independence Temporary Assistance Program**

##### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

##### **Subchapter B. Conditions of Eligibility**

##### **§1223. Citizenship**

A. – A.10. ...

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

B. - B.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), amended LR 28:1599 (July 2002), LR 32:1911 (October 2006), LR 36:

## **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

##### **Subpart 3. Supplemental Nutrition Assistance Program**

##### **Chapter 19. Certification of Eligible Households**

##### **Subchapter D. Citizenship and Alien Status**

##### **§1931. Qualified Aliens**

A. - A.10. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 25:710 (April 1999), LR 28:1600 (July 2002), LR 36:

##### **§1932. Time Limitations for Certain Aliens**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), LR 28:1600 (July 2002), LR 29:606 (April 2003), LR 30:493 (March 2004), LR 36:

##### **§1934. Alien Eligibility Criteria**

A. The following qualified aliens are eligible for benefits:

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

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

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

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

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

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

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

Section 1304 of Title 38, United States Code, and unmarried dependent children;

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 36:

##### **Subchapter K. Action on Household with Special Circumstances**

##### **§1995. Sponsored Aliens**

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age, an indigent alien that the State agency has determined is unable to obtain food and shelter, taking into account the alien's own income plus, any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s).

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P. L. 104-208, P. L. 105-33, P. L. 107-171, and 7CFR 273.4(c)(3)(iv).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:493 (March 2004), LR 36:

##### **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 semi-annual report month as a result of changes reported through the semi-annual reporting process;

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 food stamps at the same time and has been getting food stamps 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)

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), LR 36:

Kristy Nichols  
Secretary

1005#063

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 2010 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2010 Spring Shrimp Season in Louisiana state waters to open as follows:

Shrimp Management Zone 2 from the eastern shore of South Pass of the Mississippi River to Southwest Pass at Marsh Island to open at 6:00 a.m., May 10, 2010, and

Shrimp Management Zone 3 from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line, to open at 6:00 a.m., May 31, 2010.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open the spring shrimp season in both inside and outside state waters within Shrimp Management Zone 1 when the current LDWF precautionary fisheries closure within these waters is suspended; and to delay the opening of, or close, the 2010 spring inshore shrimp season if biological and technical data indicate the presence of significant numbers of small, unmarketable size brown shrimp; and to close any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. The Secretary is further granted the authority to open any area, or re-open any previously closed area, of inside waters based upon biological and technical data.

Stephen J. Oats  
Chairman

1005#049

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Fishing Closure

In accordance with the emergency provisions of R.S. 49:953.B and R.S.49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all recreational and commercial fishing, effective May 6, 2010, in the following area:

All coastal waters east of the Mississippi River and south and east of a line running along the southern shoreline of Bayou Bienvenue to the shoreline of Lake Borgne; thence northeasterly along the southern and eastern shoreline of Lake Borgne to Malheureaux Point at latitude 30 degrees 04 minutes 45 seconds north and longitude 89 degrees 28 minutes 59 seconds west; thence northeasterly to a point at latitude 30 degrees 05 minutes 23 seconds north and longitude 89 degrees 28 minutes 23 seconds west; thence northeasterly to a point on the most western point of Half Moon Island at latitude 30 degrees 07 minutes 50 seconds north and longitude 89 degrees 26 minutes 49 seconds west; thence northwesterly to a point at latitude 30 degrees 09 minutes 15 seconds north and longitude 89 degrees 28 minutes 34 seconds west; thence northeasterly to a point on the Louisiana-Mississippi State Boundary at latitude 30 degrees 09 minutes 50 seconds north and longitude 89 degrees 28 minutes 20 seconds west.

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area. The possession, sale, barter, trade, or exchange



of any fish or other aquatic life from the closed area during the closure is prohibited.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to broaden or to reopen the area closed to fishing if biological and technical data indicates the need to do so.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

This action is taken in coordination with Louisiana Department of Health and Hospitals, to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a declaration of emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Stephen J. Oats  
Chairman

1005#047

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Fishing Closure, Portion of Eastern Louisiana

In accordance with the emergency provisions of R.S. 49:953.B and R.S.49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Department of Wildlife and Fisheries hereby closes all recreational and commercial fishing, effective at sunset on April 30, 2010, in the following area:

All coastal waters east of the Mississippi River and south and east of a line running along the southern shoreline of Bayou Bienvenue to the shoreline of Lake Borgne; thence northeasterly along the southern and eastern shoreline of Lake Borgne to Malheureaux Point at latitude 30 degrees 04 minutes 45 seconds north and longitude 89 degrees 28 minutes 59 seconds west; thence northeasterly to a point at latitude 30 degrees 05 minutes 23 seconds north and longitude 89 degrees 28 minutes 23 seconds west; thence northeasterly to a point on the most western point of Half Moon Island at latitude 30 degrees 07 minutes 50 seconds north and longitude 89 degrees 26 minutes 49 seconds west; thence northwesterly to a point at latitude 30 degrees 09 minutes 15 seconds north and longitude 89 degrees 28 minutes 34 seconds west; thence northeasterly to a point on the Louisiana – Mississippi State Boundary at latitude 30 degrees 09 minutes 50 seconds north and longitude 89 degrees 28 minutes 20 seconds west.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

This action is taken in close coordination with Secretary Alan Levine, Louisiana Department of Health and Hospitals, to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a declaration of emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited. This area will remain closed to fishing until reopened by the Secretary of the Department of Wildlife and Fisheries.

Robert J. Barham  
Secretary

1005#012

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Shrimp Season Closure, Portion of Zone 1 Including Breton and Chandeleur Sounds

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on December 3, 2009 which authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations, the Secretary hereby declares:

The special shrimp season in that portion of Shrimp Management Zone 1 south of the southern shore of the Mississippi River Gulf Outlet and the open waters of Breton and Chandeleur Sounds as described by the double-rig line

(R.S. 56:495.1) shall close to shrimping effective 6:00 a.m., April 30, 2010. The special shrimp season in the remaining portion of Zone 1 shall remain open to shrimping until further notice.

Robert J. Barham  
Secretary

1005#011

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Special Shrimp Season Opening, Portion of  
Breton and Chandeleur Sounds

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on December 3, 2009 which authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations, the Secretary hereby declares:

That open waters of Breton and Chandeleur Sounds as described by the double-rig line (LA R.S.56:495.1) shall open to shrimping at 6:00 pm April 28, 2010. These waters shall remain open to shrimping until further notice.

Robert J. Barham  
Secretary

1005#008

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Special Shrimp Season Closure,  
Remainder of Zone 1 and All of Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted

by the Wildlife and Fisheries Commission on December 3, 2009 which authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations, the Secretary hereby declares:

That the special shrimp season in the remaining portion of Shrimp Management Zone 1 including all state territorial waters seaward of the inside/outside shrimp line as described in LA R.S. 56:495 from the Mississippi/Louisiana state line to the western shore of South Pass at the Mississippi River at 89 degrees 08 minutes 42 seconds west longitude and all inshore waters of Zone 2 shall close at 6:00 p.m., May 4, 2010.

Robert J. Barham  
Secretary

1005#013

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Special Shrimp Season, Zone 2 and Portion of Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on December 3, 2009 which authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations, the Secretary hereby declares:

That all of Shrimp Management Zone 1 north of 29 degrees 30 minutes 00 seconds north latitude and all of Shrimp Management Zone 2 including that portion of the State's Outside Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the western shore of Freshwater Bayou at 92 degrees 18 minutes 33 seconds west longitude to the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel Buoy Line to open at 12:00 noon April 29, 2010. These waters shall remain open to shrimping until further notice.

Shrimp Management Zone 1 includes that portion of Louisiana's inside waters from the Mississippi/Louisiana State line to the eastern shore of South Pass of the Mississippi River, however, only that portion of Zone 1 north of 29 degrees 30 minutes 00 seconds north latitude will open to shrimping. Shrimp Management Zone 2 includes that portion of Louisiana's inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island.

Unseasonably colder temperatures and wet winter conditions have delayed brown shrimp recruitment and growth; however, significant populations of over-wintering white shrimp are present in these waters and this special season should provide fishermen with added economic opportunity through the harvest and sale of over-wintering white shrimp.

Robert J. Barham  
Secretary

1005#007

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Territorial Sea Shrimp Closure and Portion of Zone 3 Opening

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which authorizes the Secretary of the Department of Wildlife and Fisheries to delay the opening of, or close, the 2010 spring inshore shrimp season if biological and technical data indicate the presence of significant numbers of small, unmarketable size brown shrimp; and to close any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. The secretary is further granted the authority to open any area, or re-open any previously closed area, of inside waters based upon biological and technical data, the Secretary hereby declares:

The shrimp season in that portion of state outside waters seaward of the inside/outside shrimp line as described in LA R.S. 56:495 from the western shore of South Pass of the Mississippi River at 89 degrees 08 minutes 42 seconds west longitude westward to the eastern shore of Quatre Bayou Pass at 89 degrees 50 minutes 32.5 seconds west longitude effective 6:00 p.m., May 6, 2010. State outside waters west of the eastern shore of Quatre Bayou Pass shall remain open to shrimping until further notice.

The spring inshore shrimp season in that portion of Shrimp Management Zone 3 including the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the

inside/outside shrimp line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove and including the Louisiana portion of the Sabine River Ship Channel originating at the south side of Louisiana Highway 82 bridge southward to a point originating along the inside/outside shrimp line at Sabine Pass as described in LA R.S. 56:495(A) will open at 6:00 a.m., May 10, 2010.

Robert J. Barham  
Secretary

1005#048

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Territorial Sea Shrimp Re-Opening

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on December 3, 2009 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares:

That State Outside Waters from the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to the U.S. Coast Guard navigational light off the northwest shore of Cailou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude, shall reopen to shrimping at 6:00 a.m., April 21, 2010.

Recent biological samples taken by Department personnel indicate that small white shrimp which have over-wintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. Significant numbers of small white shrimp still remain in State Outside Waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude, and this area will remain closed to shrimping until further notice.

Robert J. Barham  
Secretary

1005#005

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment  
Standards and Practices  
(LAC 28:CXI.Chapters 3, 7, 11, 13, 18, 20, 33, and 35)

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 adopted revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: §312. Administrative Error, §701. Overview of Assessment Programs in Louisiana, §1127. Grade 4 Achievement Level Descriptors, §1129. Grade 8 Achievement Level Descriptors, §1151. Retests and Rescores, §1325. Grade 10 Achievement Level Descriptors, §1327. Grade 11 Achievement Level Descriptors, §1349. Rescores, §1803. Introduction, §1819. Double Jeopardy Rule, §1821. First Cohort, §1823. Rescores, §1825. EOC Administration Rules, §1827. EOC Retest Administration, §1829. EOC Transfer Rules, §2011. Grade 4 Achievement Level Descriptors, §2012. Grade 5 Achievement Level Descriptors, §2013. Grade 6 Achievement Level Descriptors, §2014. Grade 7 Achievement Level Descriptors, §2015. Grade 8 Achievement Level Descriptors, §2016. Grade 9 Achievement Level Descriptors, §2017. Grade 10 Achievement Level Descriptors, §2019. Grade 11 Achievement Level Descriptors, §2031. Double Jeopardy Rule, §2033. Rescores, §2035. LAA 2 Administration Rules, §2037. Summer Retest Administration, §2039. LAA 2 Transfer Students, §2041. Student Membership Determination, §3303. Special Education Students, §3307. Limited English Proficient Students, §3501. Approved Home Study Program Students, and §3507 Office of Juvenile Justice.

The document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new and edited policy guidelines to Chapter 18, End-of-Course Tests (EOCT) and Chapter 20, LEAP Alternate Assessment, Level 2 (LAA 2) statewide assessment programs. New policy language updates, double jeopardy rules, first cohort, rescores, EOCT administrative rules, EOCT retest administration, and EOCT transfer rules are being added to Chapter 18, End-Of-Course Tests (EOCT). New policy language, updates, double jeopardy rules, rescore requests, administration rules, retest administration rules, transfer student rules, and student membership rules are being added to Chapter 20, LEAP Alternate Assessment Level 2 (LAA 2). The new policy language aligns LAA 2 and EOCT with the guidelines of the statewide assessments, Graduation Exit Examination (GEE), and Louisiana Educational Assessment Program (LEAP). Policy language was also edited in Chapters 3, 7, 11, 13, 33, and 35 to update statewide assessment information.

## Title 28

### EDUCATION

#### Part CXI. Bulletin 118 Statewide Assessment Standards and Practices

#### Chapter 3. Test Security

#### §312. Administrative Error

A. - F. ...

G. Administrative errors that result from failure to transfer answers from a test booklet onto an answer document require the following steps:

1. the LEA superintendent will place a request on behalf of individual students, which request must include a description of the administrative error and a corrective plan of action, to the state superintendent of education to have the testing vendor send to the district the student's test booklet and a new answer document;

2. the DTC and STC will transfer only the answers not initially transferred from the test booklet onto the new answer document; and

3. the DTC will return all testing materials to the vendor, who will assess the LEA a fee for the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007), LR 33:218 (February 2007), LR 36:967 (May 2010).

#### Chapter 7. Assessment Program Overview

#### §701. Overview of Assessment Programs in Louisiana

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
<b>Kindergarten Screening</b>		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	Fall 1987–
<b>Norm-Referenced Tests (NRTs)</b>		
California Achievement Test (CAT/F)	Grades 4, 6, and 9	Spring 1988–Spring 1992 (no longer administered)
California Achievement Test (CAT/5)	Grades 4 and 6 Grade 8	Spring 1993–Spring 1997 Spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	Grades 4, 6, 8, 9, 10, and 11	Spring 1998 (no longer administered)
ITBS ITED (form M)	Grades 3, 5, 6, and 7 Grade 9	Spring 1999–Spring 2002 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
ITBS ITED (form B)	Grades 3, 5, 6, and 7 Grade 9	Spring 2003–Spring 2005 (no longer administered)
<b>Criterion-Referenced Tests (CRTs)</b>		
National Assessment of Educational Progress (NAEP)	Grades 4, 8, and 12	Spring 1990–
Louisiana Educational Assessment Program (LEAP)	Grades 3, 5, and 7	Spring 1989–Spring 1998 (no longer administered)
Graduation Exit Examination (“old” GEE)	Grades 10 and 11	Spring 1989–Spring 2003 (state administered) Fall 2003– (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	Grades 4 and 8	Spring 1999–
LEAP (Science and Social Studies)	Grades 4 and 8	Spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	Grade 10	Spring 2001–
GEE (Science and Social Studies)	Grade 11	Spring 2002–
End-Of-Course Tests (EOCT)	Algebra I	Fall 2007–
EOCT	Algebra I	Spring 2008–
EOCT	English II	Fall 2008–
EOCT	English II	Spring 2009–
EOCT	Geometry	Fall 2009–
EOCT	Geometry	Spring 2010–
<b>Integrated NRT/CRT</b>		
Integrated Louisiana Educational Assessment Program (iLEAP)	Grades 3, 5, 6, 7, and 9	Spring 2006–
<b>Special Population Assessments</b>		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in Grades 3–11.	Spring 2000–2007
LAA 1	ELA and Mathematics (grade spans 3–4; 5–6; 7–8; 9–10); Science (grades 4, 8, and 11)	Revised Spring 2008–
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	Grades 4, 8, 10, and 11	Spring 2006–
LAA 2 ELA and Mathematics	Grades 5, 6, 7, and 9	Spring 2007–
LAA 2 Science and Social Studies	Grades 4 and 8	Spring 2008–

Name of Assessment Program	Assessment Population	Administered
Louisiana Alternate Assessment-B (LAA-B) [“out-of-level” test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in Grades 3–11.	Spring 1999–Spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in Grades K–12	Spring 2005–

B. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010).

### Chapter 11. Louisiana Educational Assessment Program

#### Subchapter C. LEAP Achievement Level Descriptors §1127. Grade 4 Achievement Level Descriptors

##### A. Grade 4 English Language Arts Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>understand what they read, make generalizations, and extend meanings by integrating personal experiences and other reading experiences;</li> <li>explain the author’s intent and purpose;</li> <li>identify literary devices such as figurative language; and</li> <li>research topics by selecting and evaluating information in a variety of sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>express analytical, critical, and/or creative thinking in response to a writing task;</li> <li>develop responses with sharply focused central ideas, cohesive organization, and thorough elaboration;</li> <li>demonstrate awareness of the intended audience through use of creative language and sentence structure and strong personal style or voice; and</li> <li>demonstrate consistent command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Mastery</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>demonstrate overall understanding of what they read;</li> <li>extend ideas in texts by making connections to their own experiences, making inferences, and drawing conclusions;</li> <li>identify an author’s intent and purpose; and</li> <li>research topics by selecting and evaluating information in a variety of sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>express analytical, critical, and/or creative thinking in response to a writing task;</li> <li>develop a response with a focused central idea through use of logical organization and sufficient elaboration;</li> <li>demonstrate an awareness of the intended audience through use of appropriate language and sentence structure and personal style or voice; and</li> <li>demonstrate reasonable command of spelling, grammar, punctuation, and capitalization.</li> </ol>

<b>Basic</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate some understanding of what they read;</li> <li>2. make obvious connections between information and their personal experiences;</li> <li>3. extend ideas in the text by making simple inferences; and</li> <li>4. research topics by locating information in a variety of sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. express some critical or creative thinking in response to a writing task;</li> <li>2. develop responses with central ideas supported with some organization and elaborated with a few supporting details;</li> <li>3. demonstrate audience awareness through use of general vocabulary, some sentence variety, and some evidence of personal style or voice; and</li> <li>4. make errors in spelling, grammar, punctuation, and capitalization that interfere with communication to the reader.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate partial understanding of what they read;</li> <li>2. make limited connections between texts and their own personal experiences;</li> <li>3. identify obvious meanings in texts and make limited or simple inference; and</li> <li>4. research topics by locating information in commonly used resources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate a limited response to a writing task;</li> <li>2. develop responses with vague or weak central ideas, weak organization, and few or limited details;</li> <li>3. demonstrate limited audience awareness through use of simple or inappropriate vocabulary, simple sentences, and little to no evidence of personal style or voice; and</li> <li>4. demonstrate inconsistent or little command of spelling, grammar, capitalization, and punctuation.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level generally have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>In the areas of reading and use of resources, students at this level have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate an understanding of overall meaning of what they read;</li> <li>2. make connections between information in texts and their own experiences;</li> <li>3. identify obvious meaning in texts; or</li> <li>4. locate information in commonly used resources.</li> </ol> <p>In the area of writing, students at this level have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. develop an appropriate response to a writing task;</li> <li>2. focus on a central idea and demonstrate observable organization and supporting details;</li> <li>3. demonstrate audience awareness through use of appropriate vocabulary and sentence structure and personal style or voice; or</li> <li>4. demonstrate acceptable command of spelling, grammar, capitalization, and punctuation.</li> </ol>

## B. Grade 4 Mathematics Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. solve complex and non-routine real-world problems in all the Louisiana mathematics content strands;</li> <li>2. display mastery in the use of four-function calculators, rulers, and geometric shapes;</li> <li>3. draw logical conclusions and justify answers and solution processes by explaining the procedures and the rationale for using them;</li> <li>4. go beyond the obvious in their interpretations; and</li> <li>5. communicate their thoughts clearly and concisely.</li> </ol>

<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. use whole numbers to estimate, compute, and determine whether results are reasonable;</li> <li>2. conceptually understand fractions, decimals, and percents and their relationships;</li> <li>3. solve real-world problems in all the Louisiana mathematics content strands;</li> <li>4. accurately use four-function calculators, rulers, and geometric shapes appropriately;</li> <li>5. employ problem-solving strategies such as identifying and using appropriate information; and</li> <li>6. organize and present written solutions with both supporting information and explanations of how they were achieved.</li> </ol>
<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. estimate and use basic facts to perform simple computations with whole numbers;</li> <li>2. show some understanding of fractions, decimals, and percents and their relationships;</li> <li>3. solve some simple real-world problems in all the Louisiana mathematics content strands;</li> <li>4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and</li> <li>5. provide written responses that are often minimal and presented without supporting information.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. use basic facts to perform simple computations with whole numbers;</li> <li>2. recognize fractions, decimals, and percents;</li> <li>3. exhibit difficulty applying conceptual knowledge in solving real-world problems;</li> <li>4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and</li> <li>5. provide, at best, only minimal written responses.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. use basic facts to perform simple computations with whole numbers;</li> <li>2. recognize fractions, decimals, and percents;</li> <li>3. apply conceptual knowledge in solving real-world problems;</li> <li>4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and</li> <li>5. provide relevant written responses.</li> </ol>

## C. Grade 4 Science Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. design and carry out scientific investigations by selecting and using appropriate tools, technology, and techniques/methods;</li> <li>2. formulate appropriate questions that demonstrate critical thinking and a broad base of scientific knowledge;</li> <li>3. interpret relationships and make inferences based on data and apply to new situations;</li> <li>4. organize data in graphic form, evaluate validity of data, and draw/justify conclusions based on data;</li> <li>5. develop, elaborate, and modify predictions, models, and explanations;</li> <li>6. use/apply concepts about properties of objects/materials, position/motion of objects, and forms of energy to new ideas/situations;</li> <li>7. use/apply concepts about characteristics, life cycles, and environments of organisms to recognize—and analyze observed phenomena;</li> <li>8. use/apply concepts about properties of Earth materials, weather, and objects in the night sky to predict/justify patterns and relationships; and</li> <li>9. use/apply concepts about interrelationships among the human, biological, chemical, and physical aspects of the environment.</li> </ol>

D. Grade 4 Social Studies Achievement Level Descriptors

<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. design and carry out scientific investigations using appropriate methods, tools, technology, and techniques;</li> <li>2. formulate appropriate questions demonstrating broad base of scientific knowledge;</li> <li>3. identify relationships based on data and apply to new situations;</li> <li>4. organize data in a graphic form, draw conclusions, justify conclusions, and make predictions based on data;</li> <li>5. explain and connect concepts about properties of objects/materials, position/motion of objects, and formation of energy;</li> <li>6. explain and connect concepts about characteristics, life cycles, and environments of organisms;</li> <li>7. explain and connect concepts about properties of Earth materials, weather, and objects in the night sky; and</li> <li>8. explain and connect concepts about the interrelationships among the human, biological, chemical, and physical aspects of the environment.</li> </ol>
<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. perform simple scientific tasks when given clear, sequential directions;</li> <li>2. recognize questions that are appropriate to investigation;</li> <li>3. organize and present data in a graphic form and draw conclusions based on data;</li> <li>4. demonstrate basic knowledge/understanding of properties of objects, motion of objects, and forms of energy as they apply to their everyday life;</li> <li>5. demonstrate basic knowledge/understanding of characteristics, life cycles, and environments of organisms and relationships;</li> <li>6. demonstrate knowledge/understanding of basic concepts of properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. demonstrate knowledge/understanding of basic components of an ecosystem and recognize how change impacts the system.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. perform portions of simple scientific tasks when given clear, sequential directions;</li> <li>2. read/interpret some data in a graphic form;</li> <li>3. respond to simple directed questions;</li> <li>4. exhibit partial understanding of properties of objects, motion of objects, and forms of energy as they apply to their everyday life;</li> <li>5. exhibit partial understanding of characteristics, life cycles, and environments of organisms and relationships;</li> <li>6. exhibit partial understanding of basic concepts of properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. exhibit partial understanding of basic components of ecosystems and recognize how change impacts systems.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. perform portions of simple scientific tasks when given clear, sequential directions;</li> <li>2. read/interpret some data in a graphic form;</li> <li>3. respond to simple directed questions;</li> <li>4. exhibit partial understanding of properties of objects, motion of objects, and forms of energy as they apply to their everyday life;</li> <li>5. exhibit partial understanding of characteristics, life cycles, and environments of organisms and relationships;</li> <li>6. exhibit partial understanding of basic concepts of properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. exhibit partial understanding of basic components of ecosystems and recognize how change impacts systems.</li> </ol>

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <p><b>Geography:</b></p> <ol style="list-style-type: none"> <li>1. interpret major geographic features on maps and globes;</li> <li>2. classify geographic vocabulary;</li> <li>3. analyze the connection between people;</li> <li>4. compare geographical data;</li> <li>5. compare the world in spatial terms; and</li> <li>6. compare processes that shape Earth.</li> </ol> <p><b>Civics:</b></p> <ol style="list-style-type: none"> <li>1. evaluate the structure and purpose of government; and</li> <li>2. interpret rights as stated in the U.S. Constitution.</li> </ol> <p><b>Economics:</b></p> <ol style="list-style-type: none"> <li>1. evaluate the economic factors involved in a choice or a decision; and</li> <li>2. analyze decisions made by individuals, households, businesses, and governments and their economic outcomes.</li> </ol> <p><b>History:</b></p> <ol style="list-style-type: none"> <li>1. express the significance of key historical people, events, and documents;</li> <li>2. use an understanding of historical perspective, time, and chronology to analyze past and current events;</li> <li>3. interpret both primary and secondary sources; and</li> <li>4. evaluate the social and economic impact of major scientific and technological advancements.</li> </ol>
<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to</p> <p><b>Geography:</b></p> <ol style="list-style-type: none"> <li>1. analyze and compare major geographic features on maps and globes;</li> <li>2. compare the connection between people and the environment;</li> <li>3. classify geographical data;</li> <li>4. describe the world in spatial terms; and</li> <li>5. describe processes that shape Earth.</li> </ol> <p><b>Civics:</b></p> <ol style="list-style-type: none"> <li>1. explain the branches and responsibilities of government; and</li> <li>2. explain rights and responsibilities of citizens as stated in the U.S. Constitution.</li> </ol> <p><b>Economics:</b></p> <ol style="list-style-type: none"> <li>1. apply economic concepts;</li> <li>2. explain how individuals, households, businesses, and governments are dependent on each other; and</li> <li>3. demonstrate an understanding of the economic outcomes of decisions made by individuals, households, businesses, and governments.</li> </ol> <p><b>History:</b></p> <ol style="list-style-type: none"> <li>1. identify and describe key historical people, events, and documents;</li> <li>2. apply an understanding of historical perspective, time, and chronology;</li> <li>3. interpret primary and secondary sources; and</li> <li>4. explain the importance of major scientific and technological advancements.</li> </ol>

<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <p>Geography:</p> <ol style="list-style-type: none"> <li>1. recognize major geographic features on maps and globes;</li> <li>2. define geographic vocabulary;</li> <li>3. describe the connection between people and the environment;</li> <li>4. interpret geographical data;</li> <li>5. define the world in spatial terms; and</li> <li>6. define processes that shape Earth.</li> </ol> <p>Civics:</p> <ol style="list-style-type: none"> <li>1. identify branches and major responsibilities of government; and</li> <li>2. list the rights and responsibilities of citizens as stated in the Bill of Rights.</li> </ol> <p>Economics:</p> <ol style="list-style-type: none"> <li>1. identify fundamental economic concepts and terms; and</li> <li>2. recognize that the decisions made by individuals, households, businesses, and governments result in economic outcomes.</li> </ol> <p>History:</p> <ol style="list-style-type: none"> <li>1. identify and describe some important people, events, and documents in American history;</li> <li>2. demonstrate an understanding of the concepts of historical perspective and time;</li> <li>3. distinguish between primary and secondary historical sources; and</li> <li>4. describe some scientific and technological advancements.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <p>Geography:</p> <ol style="list-style-type: none"> <li>1. identify major geographic features on maps and globes;</li> <li>2. select words that define geographic vocabulary;</li> <li>3. explain the connection between people, places, man, and the environment;</li> <li>4. identify geographical data;</li> <li>5. identify the world in spatial terms; and</li> <li>6. identify processes that shape Earth.</li> </ol> <p>Civics:</p> <ol style="list-style-type: none"> <li>1. recognize that the United States has a government that is divided into branches; and</li> <li>2. state that citizens have rights and responsibilities.</li> </ol> <p>Economics:</p> <ol style="list-style-type: none"> <li>1. identify some fundamental economic concepts and terms.</li> </ol> <p>History:</p> <ol style="list-style-type: none"> <li>1. recognize a few of the most important people, events, and documents in American history;</li> <li>2. demonstrate a limited understanding of the concepts of historical perspective and time; and</li> <li>3. identify some important scientific and technological advancements.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally have <i>not</i> exhibited the ability to:</p> <p>Geography:</p> <ol style="list-style-type: none"> <li>1. identify major geographic features on maps and globes;</li> <li>2. select words that define geographic vocabulary;</li> <li>3. explain the connection between people, places, man, and the environment;</li> <li>4. identify geographical data;</li> <li>5. identify the world in spatial terms; and</li> <li>6. identify processes that shape Earth.</li> </ol> <p>Civics:</p> <ol style="list-style-type: none"> <li>1. recognize that the United States has a government that is divided into branches; and</li> <li>2. state that citizens have rights and responsibilities.</li> </ol> <p>Economics:</p> <ol style="list-style-type: none"> <li>1. identify some fundamental economic concepts and terms.</li> </ol> <p>History:</p> <ol style="list-style-type: none"> <li>1. recognize a few of the most important people, events, and documents in American history;</li> <li>2. demonstrate a limited understanding of the concepts of historical perspective and time; and</li> <li>3. identify some important scientific and technological advancements.</li> </ol>

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4(A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, State Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 36:968 (May 2010).

**§1129. Grade 8 Achievement Level Descriptors**

**A. Grade 8 English Language Arts Achievement Level Descriptors**

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the following skills:</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. describe the more abstract themes and ideas of what they read from various genres;</li> <li>2. analyze both meaning of texts and author's purpose and support their analyses with examples;</li> <li>3. extend text information by relating it to their personal experiences and to world events; and</li> <li>4. research topics by selecting and evaluating information from a variety of sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. develop compositions that reflect analytical, critical, and/or creative thinking in response to a writing task;</li> <li>2. develop sharply focused central ideas through use of cohesive organization and thorough elaboration;</li> <li>3. demonstrate audience awareness through use of varied word choice and sentence structures and a personal style or voice that employs a wide range of strategies (e.g., analogies, anecdotes, figurative language); and</li> <li>4. demonstrate consistent command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Mastery</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. show an overall understanding of what they read, including inferential and literal information;</li> <li>2. analyze an author's purpose and some devices authors use in composing texts;</li> <li>3. extend ideas by inferring, drawing conclusions, and making connections to their personal experiences; and</li> <li>4. research topics by selecting and analyzing information from various sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. express analytical, critical and/or creative thinking in response to a writing task;</li> <li>2. develop focused central ideas through use of logical organization and elaboration that enhances the main idea;</li> <li>3. demonstrate audience awareness through the use of varied word choice and sentence structure and a personal style or voice that incorporates some strategies (e.g., illustrations, examples, figurative language); and</li> <li>4. demonstrate reasonable command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Basic</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate a literal understanding of what they read, including specific aspects that reflect the overall meaning;</li> <li>2. identify an author's purpose for composing a text;</li> <li>3. extend the ideas in texts by making simple inferences; recognize and relate connections among ideas in texts by drawing conclusions; and</li> <li>4. research topics by selecting and using information from various sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate an appropriate response to a writing task;</li> <li>2. develop central ideas with a consistent focus, appropriate organization, and some supportive details;</li> <li>3. demonstrate audience awareness through use of appropriate but general language and some sentence variety; and</li> <li>4. make some errors in spelling, grammar, punctuation, and capitalization that interfere with communication to the reader.</li> </ol>



<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the following skills.</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate a partial understanding of what they read;</li> <li>2. make a few interpretations and extensions of ideas in text;</li> <li>3. make limited connections between texts and their personal experiences; and</li> <li>4. research topics by locating some information from commonly used sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate a limited response to a writing task;</li> <li>2. develop central ideas that are vague with some evidence of organization but few or inappropriate supporting details;</li> <li>3. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences; and</li> <li>4. demonstrate inconsistent or little command of spelling, grammar, capitalization, and punctuation.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level generally have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>In the areas of reading and use of resources, students at this level have not exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate an understanding of what they read;</li> <li>2. make interpretations and extensions of ideas in texts;</li> <li>3. make connections from texts to personal experiences; or</li> <li>4. locate information in commonly used resources.</li> </ol> <p>In the area of writing, students at this level have not exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. respond appropriately to a writing task;</li> <li>2. demonstrate a central idea with observable organization or supporting details;</li> <li>3. show audience awareness through the use of appropriate grade-level vocabulary and sentence structure; or</li> <li>4. demonstrate acceptable command of spelling, grammar, capitalization, and punctuation.</li> </ol>

## B. Grade 8 Mathematics Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. probe examples and counterexamples in order to shape generalizations from which they can develop models,</li> <li>2. use number sense and geometric awareness to consider the reasonableness of an answer,</li> <li>3. use abstract thinking to create unique and/or alternative problem-solving techniques, and</li> <li>4. explain the reasoning processes underlying their conclusions.</li> </ol>
<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. logically create and defend their ideas, as well as give supporting examples;</li> <li>2. understand the connections between fractions, percents, decimals, and other mathematical topics such as algebra and functions;</li> <li>3. thoroughly understand basic-level arithmetic operations in order to problem solve in practical situations;</li> <li>4. use quantity and spatial relationships in problem solving and reasoning;</li> <li>5. convey underlying reasoning skills beyond the level of arithmetic;</li> <li>6. compare and contrast mathematical ideas and generate their own examples;</li> <li>7. apply properties of informal geometry;</li> <li>8. accurately use the tools of technology; and</li> <li>9. understand the process of gathering and organizing data and be able to make inferences, calculate, evaluate, and communicate results within the domain of statistics and probability.</li> </ol>

<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;</li> <li>2. solve routine, real-world problems through the appropriate selection and use of strategies and technological tools—including calculators and geometric shapes;</li> <li>3. use fundamental algebraic and informal geometric concepts in problem solving;</li> <li>4. determine which of available data are necessary and sufficient for correct solutions and use them in problem solving; and</li> <li>5. show limited skill in communicating mathematically.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. complete problems correctly with the help of prompts such as diagrams, charts and graphs;</li> <li>2. solve one-step problems involving basic computation (+, −, x, ÷) and follow procedural steps with instructional assistance;</li> <li>3. recognize basic geometric figures;</li> <li>4. recognize simple, obvious patterns;</li> <li>5. use the tools of technology;</li> <li>6. apply conceptual knowledge inconsistently; and</li> <li>7. demonstrate difficulty in transferring knowledge and skills to problem-solving situations.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level generally have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;</li> <li>2. solve one-step problems involving basic computation (+, −, x, ÷) and follow procedural steps with instructional assistance;</li> <li>3. recognize basic geometric figures;</li> <li>4. recognize simple, obvious patterns;</li> <li>5. use the tools of technology;</li> <li>6. apply conceptual knowledge on a limited basis; and</li> <li>7. transfer knowledge and skills to problem-solving situations.</li> </ol>

## C. Grade 8 Science Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. use abstract concepts/theories to explain everyday situations,</li> <li>2. describe many elements of a system and explain the limits of a particular example,</li> <li>3. design complex models, and</li> <li>4. demonstrate an understanding of the nature and limits of science and understand that science is subject to change.</li> </ol> <p>When given a problem, students at this level can design a simple investigation by:</p> <ol style="list-style-type: none"> <li>1. asking appropriate questions and identifying those questions that are testable and not testable;</li> <li>2. manipulating variables;</li> <li>3. using mathematics and appropriate tools to gather, analyze, and interpret data;</li> <li>4. relating several variables to explain phenomena; and</li> <li>5. developing descriptions, explanations, and appropriate displays to communicate and defend data.</li> </ol>
<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. understand complex concepts/theories and communicate them,</li> <li>2. demonstrate an understanding of elements of the system,</li> <li>3. demonstrate understanding of models and diagrams, and</li> <li>4. recognize various limits of science and its changes.</li> </ol> <p>When given a problem, students at this level can:</p> <ol style="list-style-type: none"> <li>1. use a simple investigation, design an experiment, and link ideas while collecting data;</li> <li>2. use mathematics and appropriate tools to design methods of display for data; and</li> <li>3. draw conclusions from data.</li> </ol>

<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. possess a fundamental knowledge of some theories and concepts;</li> <li>2. identify elements of a system and state one limiting factor when given a particular example;</li> <li>3. identify a simple model;</li> <li>4. begin to understand the nature of science; and</li> <li>5. show an awareness that science is subject to change.</li> </ol> <p>When given a problem, students at this level can:</p> <ol style="list-style-type: none"> <li>1. design a simple investigation by asking appropriate questions;</li> <li>2. identify the important variables and select appropriate tools to gather data; and</li> <li>3. interpret basic data and communicate a conclusion.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. identify related elements of a system;</li> <li>2. identify elements of a simple model; and</li> <li>3. show some awareness that science is developing and changing.</li> </ol> <p>When given an investigation, students at this level can:</p> <ol style="list-style-type: none"> <li>1. answer specific scientific questions;</li> <li>2. identify at least one variable in an experiment; and</li> <li>3. seek and identify basic scientific data and communicate it.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. identify related elements of a system;</li> <li>2. identify elements of a simple model; and</li> <li>3. show some awareness that science is developing and changing.</li> </ol> <p>When given an investigation, students at this level did <i>not</i> exhibit the ability to</p> <ol style="list-style-type: none"> <li>1. answer specific scientific questions;</li> <li>2. identify at least one variable in an experiment; and</li> <li>3. seek and identify basic scientific data and communicate it.</li> </ol>

#### D. Grade 8 Social Studies Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to</p> <p><b>Geography:</b></p> <ol style="list-style-type: none"> <li>1. apply extensive geographic knowledge, analytical concepts, and vocabulary;</li> <li>2. analyze a variety of maps with a variety of scales and show the relationship between them;</li> <li>3. use case studies for spatial analysis to develop maps and other graphics;</li> <li>4. differentiate between patterns of climate, vegetation, and population across Earth's surface and explain how regions change over time; and</li> <li>5. profile regions by using geographical concepts, tools, and skills.</li> </ol> <p><b>Civics:</b></p> <ol style="list-style-type: none"> <li>1. evaluate the importance of rules and laws, political parties, campaigns, and elections in the American political systems;</li> <li>2. weigh the impact of American ideas and actions on the world; and</li> <li>3. compare and contrast positions relating to the rights of citizens.</li> </ol> <p><b>Economics:</b></p> <ol style="list-style-type: none"> <li>1. apply fundamental economic concepts,</li> <li>2. analyze the role of governmental policies in competitive markets, and</li> <li>3. examine the reasons for worldwide interdependence based on historical and economic factors.</li> </ol> <p><b>History:</b></p> <ol style="list-style-type: none"> <li>1. evaluate historical patterns as they relate to specific events,</li> <li>2. make generalizations about historical topics using a variety of sources, and</li> <li>3. develop an awareness of the political, social, and economic themes in history.</li> </ol>

<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <p><b>Geography:</b></p> <ol style="list-style-type: none"> <li>1. analyze a wide variety of physical and cultural features;</li> <li>2. apply a fundamental geographic vocabulary;</li> <li>3. compare information presented in different scales;</li> <li>4. use geographic tools to translate information into patterns;</li> <li>5. evaluate how human activity affects the environment;</li> <li>6. interpret various patterns of trade and migration; and</li> <li>7. solve location questions by integrating two or more sources.</li> </ol> <p><b>Civics:</b></p> <ol style="list-style-type: none"> <li>1. compare and contrast the relationship between state and federal constitutions;</li> <li>2. analyze the ways in which political and social conflict can be peacefully resolved;</li> <li>3. interpret the impact of U.S. foreign policy on the world; and</li> <li>4. analyze ways in which citizens help to shape politics and government at various levels.</li> </ol> <p><b>Economics:</b></p> <ol style="list-style-type: none"> <li>1. apply fundamental economic concepts;</li> <li>2. apply the meaning of economic indicators and their role in economics;</li> <li>3. analyze various economic systems and their historical impact; and</li> <li>4. evaluate the opportunity cost of economic decisions.</li> </ol> <p><b>History:</b></p> <ol style="list-style-type: none"> <li>1. recognize historical connections between people and events;</li> <li>2. distinguish between primary and secondary sources;</li> <li>3. incorporate geographic, technological, and other reference material; and</li> <li>4. communicate ideas about historical themes with supporting evidence.</li> </ol>
<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <p><b>Geography:</b></p> <ol style="list-style-type: none"> <li>1. utilize vocabulary of geographic concepts relating to patterns, relationships, distance, direction, and location;</li> <li>2. use latitude and longitude to locate places;</li> <li>3. identify continents, oceans, or selected countries and cities;</li> <li>4. explain the differences between maps/globes, read map scales and use an atlas/almanac;</li> <li>5. illustrate relationships that exist between the physical environment and human activity;</li> <li>6. identify the distinguishing characteristics of a region; and</li> <li>7. describe the movement of people, goods, services, and ideas.</li> </ol> <p><b>Civics:</b></p> <ol style="list-style-type: none"> <li>1. explain the major purposes of government;</li> <li>2. identify and explain the importance of basic principles of American constitutional democracy;</li> <li>3. describe major foreign policy of the U.S.; and</li> <li>4. describe the requirements of citizenship and naturalization in the U.S.</li> </ol> <p><b>Economics:</b></p> <ol style="list-style-type: none"> <li>1. compare basic concepts related to economics;</li> <li>2. explain the causes and consequences of economic decision making;</li> <li>3. distinguish how specialization, skills, and knowledge affect the economic process;</li> <li>4. compare various economic systems and their historical impacts; and</li> <li>5. explain the role of supply and demand on production and distribution of goods and services.</li> </ol> <p><b>History:</b></p> <ol style="list-style-type: none"> <li>1. identify and categorize people, places, events, and documents in historical context;</li> <li>2. understand the impact of diverse cultures on American life;</li> <li>3. explain the significance of major historical events; and</li> <li>4. explain the fundamental political ideas and institutions of American life.</li> </ol>

**Approaching Basic**

Students scoring at this level generally exhibit the ability to

Geography:

1. obtain information from geographic models;
2. draw a variety of maps;
3. memorize various geographic data; and
4. recognize that human activity is affected by the environment.

Civics:

1. recognize types of government;
2. identify the basic principles of American constitutional democracy;
3. recognize a foreign policy issue; and
4. list the rights and responsibilities of American citizens.

Economics:

1. identify basic concepts and vocabulary terms related to economics; and
2. discuss how supply and demand affects the price of goods and services.

History:

1. identify historical people and places;
2. develop an awareness of diverse cultures in America;
3. name a variety of historical events;
4. recognize the fundamental political ideas and institutions of American life.

**Unsatisfactory**

Students scoring at this level have *not* demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally have not exhibited the ability to

Geography:

1. obtain information from geographic models;
2. draw a variety of maps;
3. memorize various geographic data; and
4. recognize that human activity is affected by the environment.

Civics:

1. recognize types of government;
2. identify the basic principles of American constitutional democracy;
3. recognize a foreign policy issue; and
4. list the rights and responsibilities of American citizens.

Economics:

1. identify basic concepts and vocabulary terms related to economics; and
2. discuss how supply and demand affects the price of goods and services.

History:

1. identify historical people and places;
2. develop an awareness of diverse cultures in America;
3. name a variety of historical events;
4. recognize the fundamental political ideas and institutions of American life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1540 (July 2005), amended LR 36:974 (May 2010).

**Subchapter D. LEAP Assessment Structure  
§1151. Retests and Rescores**

A. ...

B. Rescores

1. The district test coordinator must file a request with the scoring contractor within 20 working days from the date the district receives the individual student scores. All requests must be made on or before the deadline date identified by the testing contractor and the LDE. Requests received after the deadline will not be honored.

2. Only rescoring of tests from the most recent administration may be requested.

3. All requests for rescoring require a fee, which is established by and paid to the scoring contractor.

4. Students may request a rescore at specified achievement levels scaled score ranges and subject area of LEAP tests if the following criterion are met, the rescore will be expedited.

a. English Language Arts and Mathematics—grades 4 and 8. The test has a scaled score five points below the Basic or Approaching Basic achievement level.

b. English Language Arts and Mathematics—Grade 8. The test has a scaled score five points below the Approaching Basic achievement level.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006), LR 36:974 (May 2010).

**Chapter 13. Graduation Exit Examination  
Subchapter C. GEE Achievement Level Descriptors  
§1325. Grade 10 Achievement Level Descriptors**

A. Grade 10 English Language Arts Achievement Level Descriptors

**Advanced**

Students scoring at this level generally exhibit the following skills:

In the areas of reading and use of resources, students:

1. demonstrate thorough understanding of what they read and describe abstract themes and ideas;
2. analyze texts for meaning and form and support their analyses with specific examples;
3. extend ideas in texts by relating their experiences and to the world; and
4. research topics by selecting and evaluating information from various sources.

In the area of writing, students

1. express analytical, critical, and/or creative thinking in response to a writing task;
2. develop effective responses that demonstrate sharply focused central ideas, cohesive organization, and elaboration with illustrative, supporting details;
3. demonstrate audience awareness through the use of rich vocabulary and a clear personal style or voice; and
4. demonstrate consistent command of spelling, grammar, punctuation, and capitalization.

**Mastery**

Students scoring at this level generally exhibit the following skills:

In the areas of reading and use of resources, students:

1. demonstrate overall understanding of what they read including inferential and literal information;
2. analyze an author's use of literary devices;
3. extend ideas in texts by making inferences, drawing conclusions, and making clear connections to personal experiences and other readings; and
4. research topics by selecting and analyzing information from various sources.

In the area of writing, students:

1. express critical, analytical, and/or creative thinking in response to a writing task;
2. develop effective responses with focused central ideas, logical organization, and convincing elaboration;
3. demonstrate awareness of the intended audience through use of varied word choice (vocabulary) and sentence structure; and
4. demonstrate reasonable command of spelling, grammar, punctuation, and capitalization

<b>Basic</b>
<p>Students scoring at this level generally exhibit the following skills:</p> <p>In the areas of reading and use of resources, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate overall understanding of what they read and make some interpretations;</li> <li>2. identify elements of texts and an author's style;</li> <li>3. extend ideas in texts by making simple inferences and some, connections to personal experiences; and</li> <li>4. research topics by selecting and using information in various sources.</li> </ol> <p>In the area of writing, students:</p> <ol style="list-style-type: none"> <li>1. demonstrate some evidence of critical, analytical, and/or creative thinking in response to a writing task;</li> <li>2. develop responses with central ideas, evidence of conscious organization, and some supporting details;</li> <li>3. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure; and</li> <li>4. make some errors in spelling, grammar, punctuation, and capitalization that interfere with communication to the reader.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the following skills:</p> <p>In the areas of reading and use of resources, students</p> <ol style="list-style-type: none"> <li>1. demonstrate a partial understanding of what they read;</li> <li>2. identify some elements of an author's style;</li> <li>3. make simple or broad connections between texts and their personal experiences; and</li> <li>4. research topics by locating information in commonly used sources.</li> </ol> <p>In the area of writing, students</p> <ol style="list-style-type: none"> <li>1. demonstrate a limited responses to a writing task;</li> <li>2. develop responses with unfocused central ideas, and minimal elaboration or supporting details;</li> <li>3. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences; and</li> <li>4. demonstrate inconsistent or little command of spelling, grammar, capitalization, and punctuation.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level generally have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>In the areas of reading and use of resources, students at this level have not exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate an understanding of what they read;</li> <li>2. identify simple elements of an author's style;</li> <li>3. make connections between ideas in texts and personal experiences; or</li> <li>4. research topics by locating information in commonly used sources.</li> </ol> <p>In the area of writing, students at this level have not exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. express ideas in response to a writing task;</li> <li>2. develop a central idea with focus, observable organization, or sufficient elaboration;</li> <li>3. show audience awareness through the use of appropriate vocabulary and varied sentence structure; or</li> <li>4. demonstrate acceptable command of spelling, grammar, capitalization, and punctuation.</li> </ol>

## B. Grade 10 Mathematics Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. understand the function concept and are able to communicate and apply the numeric, algebraic, and graphical properties of functions;</li> <li>2. apply their knowledge of algebra, geometry, and statistics to solve problems in more advanced areas of continuous and discrete mathematics;</li> <li>3. formulate generalizations and create models through probing examples and counter examples; and</li> <li>4. communicate their mathematical reasoning through the clear, concise, and correct use of mathematical symbolism and logical thinking.</li> </ol>

<b>Mastery</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate an understanding of algebraic, statistical, geometric, and spatial reasoning;</li> <li>2. simplify algebraic expressions; justify geometric relationships; and judge and defend the reasonableness of answers as applied to real-world situations;</li> <li>3. analyze and interpret data in various forms;</li> <li>4. understand and use elements of the linear function concept in symbolic, graphical, and tabular form; and</li> <li>5. make conjectures, defend ideas, and give supporting examples.</li> </ol>
<b>Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. use estimation to verify solutions and determine the reasonableness of results as applied to routine real-world problems;</li> <li>2. use algebraic and geometric reasoning strategies to solve problems;</li> <li>3. recognize relationships presented in verbal, algebraic, tabular, and graphical forms;</li> <li>4. demonstrate knowledge of geometric relationships and corresponding measurement skills;</li> <li>5. apply statistical reasoning in the organization and display of data and in reading tables and graphs;</li> <li>6. use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes; and</li> <li>7. use calculators appropriately to solve problems.</li> </ol>
<b>Approaching Basic</b>
<p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;</li> <li>2. show limited use of fundamental algebraic, geometric, and statistical reasoning in problem solving;</li> <li>3. interpret data presented in various forms;</li> <li>4. show limited skills in communicating mathematically; and</li> <li>5. demonstrate limited application of conceptual knowledge.</li> </ol>
<b>Unsatisfactory</b>
<p>Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level have generally have <i>not</i> exhibited the ability to:</p> <ol style="list-style-type: none"> <li>1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;</li> <li>2. use fundamental algebraic, geometric, and statistical reasoning in problem solving;</li> <li>3. interpret data presented in various forms;</li> <li>4. communicate mathematically; and</li> <li>5. apply conceptual knowledge.</li> </ol>

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:4 (A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 36:974 (May 2010).

### §1327. Grade 11 Achievement Level Descriptors

#### A. Grade 11 Science Achievement Level Descriptors

<b>Advanced</b>
<p>Students scoring at this level generally exhibit the ability to</p> <ol style="list-style-type: none"> <li>1. have a qualitative and quantitative grasp of scientific principles, relating them to one another and to other phenomena, and being aware of their development and limitations;</li> <li>2. formulate scientific questions, compare experimental designs, and devise valid experiments to answer their questions;</li> <li>3. collect the relevant quantitative and qualitative data using appropriate instrumentation;</li> <li>4. provide a scientifically valid interpretation of the data they collect;</li> <li>5. engage in self assessment, discard unnecessary data, and recognize gaps in information;</li> <li>6. locate needed information in primary or secondary sources; and</li> <li>7. communicate their ideas by interpolating, extrapolating, and interpreting patterns of change in graphic and symbolic representations.</li> </ol>

With inquiry as the core, students at the <i>Advanced</i> level demonstrate an understanding that unifying concepts and processes can be applied throughout the science disciplines—physical, life, earth/space, and the environmental sciences.
<b>Mastery</b>
Students scoring at this level generally exhibit the ability to
<ol style="list-style-type: none"> <li>1. grasp scientific principles on both a qualitative and quantitative basis,</li> <li>2. understand that scientific knowledge is tentative and subject to change,</li> <li>3. identify more than one way to solve a given problem and select the method with the most promise,</li> <li>4. manipulate data through various mathematical models,</li> <li>5. integrate several abstract facts in order to understand overarching scientific principles, and</li> <li>6. apply those principles to human activities.</li> </ol>
With inquiry as the core, students at the <i>Mastery</i> level will identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.
<b>Basic</b>
Students scoring at this level generally exhibit the ability to
<ol style="list-style-type: none"> <li>1. formulate valid hypotheses;</li> <li>2. design a simple experiment;</li> <li>3. draw appropriate conclusions;</li> <li>4. develop inferences from experimentation and apply that information to new situations;</li> <li>5. distinguish scientific principles from pseudoscience; and</li> <li>6. apply scientific principles to their everyday lives.</li> </ol>
With inquiry as the core, students at the <i>Basic</i> level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.
<b>Approaching Basic</b>
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> <li>1. know and understand fundamental science facts and concepts concerning the world; and</li> <li>2. conduct a simple experiment that includes making observations; forming a reasonable hypothesis; identifying variables; collecting, displaying, and interpreting data; and drawing conclusions.</li> </ol>
These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.
<b>Unsatisfactory</b>
Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally have <i>not</i> exhibited the ability to:
<ol style="list-style-type: none"> <li>1. know and understand fundamental science facts and concepts concerning the world; and</li> <li>2. conduct a simple experiment that includes making observations; forming a reasonable hypothesis; identifying variables; collecting, displaying, and interpreting data; and drawing conclusions.</li> </ol>
These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

## B. Grade 11 Social Studies Achievement Level Descriptors

<b>Advanced</b>
Students scoring at this level generally exhibit the ability to
Geography:
<ol style="list-style-type: none"> <li>1. organize geographical data;</li> <li>2. analyze the physical structure of the planet; and</li> <li>3. evaluate the spatial relationship between humans and their environment.</li> </ol>
Civics:
<ol style="list-style-type: none"> <li>1. compare and contrast structure and purpose of government;</li> <li>2. interpret and evaluate foundations of the American political system;</li> <li>3. analyze international relationships; and</li> <li>4. evaluate the roles of citizens.</li> </ol>
Economics:
<ol style="list-style-type: none"> <li>1. apply fundamental economic concepts;</li> <li>2. evaluate decisions made by consumers; and</li> <li>3. evaluate U.S. fiscal and monetary policies.</li> </ol>
History:

<ol style="list-style-type: none"> <li>1. analyze continuity and change;</li> <li>2. analyze the people, places, events, ideas, and documents;</li> <li>3. evaluate relevant experiences from the past to critique understanding of contemporary issues; and</li> <li>4. evaluate the role of evidence in making an historical argument.</li> </ol>
<b>Mastery</b>
Students scoring at this level generally exhibit the ability to
Geography:
<ol style="list-style-type: none"> <li>1. classify geographical data;</li> <li>2. examine the physical structure of the planet; and</li> <li>3. compare spatial relationships between humans and their environment.</li> </ol>
Civics:
<ol style="list-style-type: none"> <li>1. examine the structure and purpose of government;</li> <li>2. discuss the foundation of the American political system;</li> <li>3. interpret international relationships; and</li> <li>4. examine the roles of citizens.</li> </ol>
Economics:
<ol style="list-style-type: none"> <li>1. analyze fundamental economic concepts;</li> <li>2. discuss decisions made by consumers, businesses, and government; and</li> <li>3. analyze U.S. fiscal and monetary policies.</li> </ol>
History:
<ol style="list-style-type: none"> <li>1. examine the role of continuity and of change in history;</li> <li>2. examine the significance of people, places, events, ideas, and documents in history;</li> <li>3. analyze relevant experience from the past to understanding of contemporary issues; and</li> <li>4. analyze the role of evidence in making an historical argument.</li> </ol>
<b>Basic</b>
Students scoring at this level generally exhibit the ability to
Geography:
<ol style="list-style-type: none"> <li>1. interpret geographical data;</li> <li>2. describe the basic physical structure of the planet; and</li> <li>3. explain the spatial relationships between humans and their environment.</li> </ol>
Civics:
<ol style="list-style-type: none"> <li>1. explain structure and purposes of government;</li> <li>2. describe the foundations of the American political system;</li> <li>3. explain international relationships; and</li> <li>4. discuss the roles of citizens.</li> </ol>
Economics:
<ol style="list-style-type: none"> <li>1. discuss fundamental economic concepts;</li> <li>2. explain decisions made by consumers, businesses, and government; and</li> <li>3. explain U.S. fiscal policy.</li> </ol>
History:
<ol style="list-style-type: none"> <li>1. describe continuity and change;</li> <li>2. describe the significance of people, places, events, ideas, and documents;</li> <li>3. examine relevant experiences from the past to contemporary issues; and</li> <li>4. explain the role of evidence in making an historical argument.</li> </ol>
<b>Approaching Basic</b>
Students scoring at this level generally exhibit the ability to
Geography:
<ol style="list-style-type: none"> <li>1. identify geographical data;</li> <li>2. recognize the physical structure of the planet; and</li> <li>3. state the spatial relationships between humans and their environment.</li> </ol>
Civics:
<ol style="list-style-type: none"> <li>1. identify the structure and purposes of government;</li> <li>2. recognize the foundations of the American political system;</li> <li>3. identify international relationships; and</li> <li>4. identify the roles of citizens.</li> </ol>
Economics:
<ol style="list-style-type: none"> <li>1. identify fundamental economic concepts;</li> <li>2. identify decisions made by consumers, businesses, and government; and</li> <li>3. identify U.S. fiscal and monetary policies.</li> </ol>
History:
<ol style="list-style-type: none"> <li>1. recognize continuity and change;</li> <li>2. recognize the significance of people, places, events, ideas, and documents;</li> <li>3. identify relevant experiences from the past to describe contemporary issues; and</li> <li>4. recognize the role of evidence in making an historical argument.</li> </ol>

### Unsatisfactory

Students scoring at this level have not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally have *not* exhibited the ability to

#### Geography:

1. identify geographical data;
2. recognize the physical structure of the planet; and
3. state the spatial relationships between humans and their environment.

#### Civics:

1. identify the structure and purposes of government;
2. recognize the foundations of the American political system;
3. identify international relationships; and
4. identify the roles of citizens.

#### Economics:

1. identify fundamental economic concepts;
2. identify decisions made by consumers, businesses, and government; and
3. identify U.S. fiscal and monetary policies.

#### History:

1. recognize continuity and change;
2. recognize the significance of people, places, events, ideas, and documents;
3. identify relevant experiences from the past to describe contemporary issues; and
4. recognize the role of evidence in making an historical argument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 and R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1550 (July 2005), amended LR 36:975 (May 2010).

### Subchapter D. GEE Assessment Structure

#### §1349. Rescores

A. The district test coordinator must file a request with the scoring contractor within 20 working days from the date the school district receives the individual student scores. All requests must be made on or before the deadline date identified by the testing contractor and the LDE. Requests received after the deadline will not be honored.

B. Only rescores of tests from the most recent administration may be requested.

C. All requests for rescoring require a fee, which is established by and paid to the scoring contractor.

D. Students may request a rescore of their GEE tests at specified achievement levels and scaled score ranges. If the following criteria are met, the rescore will be expedited.

1. English Language Arts and Mathematics. The test has a scaled score five points below the Approaching Basic achievement level.

2. Science and Social Studies. The test has a scaled score five points below the Approaching Basic achievement level.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), LR 36:977 (May 2010).

### Chapter 18. End-of-Course Tests

#### Subchapter B. General Provisions

#### §1803. Introduction

A. - D. ....

E. EOC retests will not be offered until 2010-2011.

F. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests. In spring, 2010, the biology field tests will be administered.

G. - G.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:214 (February 2009), amended LR 36:977 (May 2010).

### Subchapter F. EOC Administrative Rules

#### §1819. Double Jeopardy Rule

A. If a school administers an EOC test that the student has already passed and the student scores needs improvement on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010).

#### §1821. First Cohort

A. The first cohort comprises students who were first-time ninth graders in 2010–2011 and all first-time ninth graders thereafter. First cohort students are required to score Fair or above on EOC English II or English III, Algebra I or Geometry, and Biology or American History to be eligible for a standard high school diploma.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010).

#### §1823. Rescores

A. The district test coordinator must file a request with the scoring contractor within 20 working days from the date the school district receives the individual student scores. All requests must be made on or before the deadline date identified by the testing contractor and the LDE. Requests received after the deadline will not be honored.

B. Only rescores of tests from the most recent administration may be requested.

C. All requests for rescoring require a fee, which is established by and paid to the scoring contractor.

D. Students may request a rescore of their EOC tests at specified achievement levels and scaled score ranges. If the following criteria is met, the rescore will be expedited:

1. The test has a scaled score five points below the Fair achievement level.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010).

#### §1825. EOC Administration Rules

A. Students enrolled in EOC courses shall take the EOC test for that course at the conclusion of the course.

B. If a district holds "graduation" prior to the release of test scores, the LEA must have in place a policy for graduation without the test scores.

C. There is no ending age limit for students to retest in EOC, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

D. If a student was issued a GED diploma and subsequently meets the requirements for the EOC, the student may surrender the GED diploma and be issued a standard high school diploma.

E. When administrative errors are made in testing, the state superintendent of education may determine how to remedy the error.

F. Seniors who have completed all EOC tests required for a standard high school diploma and who wish to retest for the Louisiana high school diploma endorsements may retest during the fall retest administration.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010).

**§1827. EOC Retest Administration**

A. Students who did not score Fair or above on an EOC test may retest in the next EOC administration.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:978 (May 2010).

**§1829. EOC Transfer Rules**

A. The following rules apply for transfer students who are Louisiana residents transferring into the Louisiana public school district from out-of-state schools, nonpublic schools, or approved home study programs.

1. Students who completed courses for Carnegie units and earned the Carnegie units are not required to take the EOC test.

2. Students who completed courses for Carnegie credit and did not earn the Carnegie units shall be required to take the EOC test for those courses only.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:978 (May 2010).

**Chapter 20. LEAP Alternate Assessment, Level 2  
Subchapter D. Achievement Level Descriptors**

**§2011. Grade 4 Achievement Level Descriptors**

A. Grade 4 English Language Arts Achievement Level Descriptors

<b>Foundational</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
5.	develop a response to a writing task using a weak or unfocused central idea, attempted organization, and little or irrelevant support,
6.	show minimal audience awareness through use of simple or inappropriate vocabulary, simple sentences, and weak personal style or voice, and
7.	demonstrate minimal command of spelling, grammar, punctuation, and capitalization.
<b>Pre-Foundational</b>	
***	
Students scoring at this level need to develop the ability to	
1.	demonstrate at least minimal understanding of what they read,
2.	make at least minimal connections between ideas in text and personal experiences,
***	
4.	develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details,
5.	show at least minimal audience awareness through use of simple vocabulary and simple sentences, and
6.	demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.

B. - D. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007), amended LR 34:2558 (December 2008), repromulgated LR 35:59 (January 2009), amended LR 35:219 (February 2009), LR 36:978 (May 2010).

**§2012. Grade 5 Achievement Level Descriptors**

A. Grade 5 English Language Arts Achievement Level Descriptors

<b>Basic</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
5.	express some creative and/or critical thinking in response to a writing task, characterized by a central idea, observable organization, and supporting details,
6.	demonstrate audience awareness through use of grade appropriate vocabulary, sentence variety, and evidence of personal style or voice, and
7.	demonstrate some command of spelling, grammar, punctuation, and capitalization.
<b>Approaching Basic</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
4.	demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, weak organization, and few supporting details,
5.	demonstrate limited audience awareness through use of simple but appropriate vocabulary, simple sentence structures, and few elements of personal style, and
6.	demonstrate limited command of spelling, grammar, punctuation, and capitalization.
<b>Foundational</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
4.	develop a minimal response to a writing task, characterized by a weak central idea, little observable organization, and few supporting details,
5.	demonstrate minimal audience awareness through the use of limited vocabulary, simple sentence structures, and little or no personal style or voice, and

<b>Basic</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
6.	develop a central idea with some observable organization and elaboration with a few supporting details,
7.	demonstrate audience awareness through use of general vocabulary, some sentence variety, and some evidence of personal style or voice, and
8.	demonstrate some command of spelling, grammar, punctuation, and capitalization.
<b>Approaching Basic</b>	
***	
Students scoring at this level generally exhibit the ability to	
***	
6.	develop a response with a vague or weak central idea, weak organization, and few or inappropriate details,
7.	demonstrate limited audience awareness through use of simple or inappropriate vocabulary, simple sentences, and little to no evidence of personal style or voice, and
8.	demonstrate limited command of spelling, grammar, punctuation, and capitalization.

6. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.
<b>Pre-Foundational</b>
***
Students scoring at this level need to develop the ability to
***
4. develop at least a minimal a minimal response to a writing task, characterized by a weak central idea, little observable organization, and few supporting details,
5. demonstrate at least minimal audience awareness through the use of limited vocabulary, simple sentence structures, and little or no personal style or voice, and
6. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2033 (October 2007), amended LR 36:978 (May 2010).

**§2013. Grade 6 Achievement Level Descriptors**

A. Grade 6 English Language Arts Achievement Level Descriptors

<b>Basic</b>
***
Students scoring at this level generally exhibit the ability to
***
4. express some creative and/or critical thinking in response to a writing task, characterized by a central idea, observable organization, and supporting details,
5. demonstrate audience awareness through use of grade-appropriate vocabulary, a variety of sentence structures, and evidence of personal style or voice, and
6. demonstrate some command of spelling, grammar, punctuation, and capitalization.
<b>Approaching Basic</b>
***
Students scoring at this level generally exhibit the ability to
***
4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, some evidence of organization, few transitions, and few supporting details,
5. demonstrate limited audience awareness through use of simple but appropriate vocabulary, simple sentence structures, and few elements of personal style, and
6. demonstrate limited command of spelling, grammar, punctuation, and capitalization.
<b>Foundational</b>
***
Students scoring at this level generally exhibit the ability to
***
4. construct a minimal response to a writing task, characterized by a weak central idea, little observable organization, and a few supporting details,
5. demonstrate minimal audience awareness through the use of limited vocabulary, simple sentences, and limited evidence of elements of personal style or voice, and
6. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.
<b>Pre-Foundational</b>
***
Students scoring at this level need to develop the ability to
***
4. construct at least a minimal response to a writing task, characterized by a weak central idea, little observable organization, and a few supporting details,
5. demonstrate at least minimal audience awareness through the use of limited vocabulary, simple sentences, and limited evidence of elements of personal style or voice, and
6. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2036 (October 2007), amended LR 36:979 (May 2010).

**§2014. Grade 7 Achievement Level Descriptors**

A. Grade 7 English Language Arts Achievement Level Descriptors

<b>Basic</b>
***
Students scoring at this level generally exhibit the ability to
***
6. develop an appropriate response to a writing task, characterized by a central idea, observable organization, simple transitions, and supporting details,
7. demonstrate audience awareness through use of grade-appropriate vocabulary, sentence variety, and evidence of personal style or voice, and
8. demonstrate some command of spelling, grammar, punctuation, and capitalization.
<b>Approaching Basic</b>
***
Students scoring at this level generally exhibit the ability to
***
4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, weak organization, and few supporting details,
5. demonstrate limited audience awareness through the use of simple vocabulary, simple sentences, and few elements of personal style, and
6. demonstrate limited command of spelling, grammar, punctuation, and capitalization.
<b>Foundational</b>
***
Students scoring at this level generally exhibit the ability to
***
4. construct a minimal response to a writing task, characterized by a weak central idea, some observable organization, and some supporting information,
5. demonstrate minimal audience awareness through use of simple vocabulary, simple sentences, and little or no personal style or voice, and
6. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.
<b>Pre-Foundational</b>
***
Students scoring at this level <i>need to develop</i> the ability to
***
4. construct at least a minimal response to a writing task, characterized by a weak central idea, some observable organization, and some supporting information,
5. demonstrate at least minimal audience awareness through the use of simple vocabulary, simple sentences, and little or no personal style or voice, and
6. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.

B. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2036 (October 2007), amended LR 36:979 (May 2010).



**§2015. Grade 8 Achievement Level Descriptors**

**A. Grade 8 English Language Arts Achievement Level Descriptors**

<b>Basic</b> ***
Students scoring at this level generally exhibit the ability to ***
<ol style="list-style-type: none"> <li>6. develop a central idea with a consistent focus, appropriate organization, and elaboration with some supporting details,</li> <li>7. demonstrate audience awareness through use of appropriate but general language, and some sentence variety, and a sense of personal style, and</li> <li>8. demonstrate some command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Approaching Basic</b> ***
Students scoring at this level generally exhibit the ability to ***
<ol style="list-style-type: none"> <li>6. develop a weak central idea with some evidence of organization and elaboration with few or inappropriate supporting details,</li> <li>7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences, and</li> <li>8. demonstrate limited command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Foundational</b> ***
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> <li>1. demonstrate minimal understanding of what they read;</li> <li>2. make minimal interpretations and extensions of ideas in the texts;</li> <li>3. make minimal connections between the text and personal experiences;</li> <li>4. research-a topic by locating minimal information-in commonly used sources;</li> <li>5. demonstrate a minimal response to a writing task;</li> <li>6. develop a response to a writing task with a weak or unfocused idea, attempted organization, and little or irrelevant support;</li> <li>7. show minimal audience awareness through use of simple or inappropriate vocabulary and simple sentences; and</li> <li>8. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Pre-Foundational</b> ***
Students scoring at this level need to develop the ability to: ***
<ol style="list-style-type: none"> <li>1. make at least minimal interpretations and extensions of ideas in the text, ***</li> <li>4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details,</li> <li>5. show at least minimal audience awareness through use of simple vocabulary and simple sentences, and</li> <li>6. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.</li> </ol>

B. - D. ...

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4(A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:272 (February 2007), amended LR 33:2037 (October 2007), LR 34:2555 (December 2008), repromulgated LR 35:60 (January 2009), amended LR 36:980 (May 2010).

**§2016. Grade 9 Achievement Level Descriptors**

**A. Grade 9 English Language Arts Achievement Level Descriptors**

<b>Basic</b> ***
Students scoring at this level generally exhibit the ability to ***
<ol style="list-style-type: none"> <li>6. construct an appropriate multiparagraph response to a writing task, characterized by a central idea, observable organization, simple transitions, and supporting information,</li> <li>7. demonstrate audience awareness through intentional use of appropriate vocabulary, sentence variety, and personal style or voice, and</li> <li>8. demonstrate some command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Approaching Basic</b> ***
Students scoring at this level generally exhibit the ability to ***
<ol style="list-style-type: none"> <li>4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, some evidence of organization and transitions, and few supporting details,</li> <li>5. demonstrate limited audience awareness through the use of simple vocabulary, simple sentence structures, and few elements of personal style, and</li> <li>6. demonstrate limited command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Foundational</b> ***
Students scoring at this level generally exhibit the ability to ***
<ol style="list-style-type: none"> <li>4. develop a minimal response to a writing task, characterized by a weak central idea, limited observable organization, and some supporting information,</li> <li>5. demonstrate minimal audience awareness in written responses through the use of simple vocabulary, simple sentences, and little or no personal style or voice, and</li> <li>6. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.</li> </ol>
<b>Pre-Foundational</b> ***
Students scoring at this level need to develop the ability to ***
<ol style="list-style-type: none"> <li>4. develop at least a minimal response to a writing task, characterized by a weak central idea, limited observable organization, and some supporting information,</li> <li>5. demonstrate at least minimal audience awareness in written responses through the use of simple vocabulary, simple sentences, and little to no personal style or voice, and</li> <li>6. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.</li> </ol>

B. ...

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4(A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2038 (October 2007), LR 36:980 (May 2010).

**§2017. Grade 10 Achievement Level Descriptors**

**A. Grade 10 English Language Arts Achievement Level Descriptors**

<b>Basic</b>
***
Students scoring at this level generally exhibit the ability to ***
<ul style="list-style-type: none"> <li>6. develop a response with a central idea, evidence of some observable organization, and elaboration with some supporting details,</li> <li>7. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure, and</li> <li>8. demonstrate some command of spelling, grammar, punctuation, and capitalization.</li> </ul>
<b>Approaching Basic</b>
***
Students scoring at this level generally exhibit the ability to ***
<ul style="list-style-type: none"> <li>6. develop a response with a weak central idea, some evidence of organization, and minimal elaboration or supporting details,</li> <li>7. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences, and</li> <li>8. demonstrate limited command of spelling, grammar, punctuation, and capitalization.</li> </ul>
<b>Foundational</b>
***
Students scoring at this level generally exhibit the ability to ***
<ul style="list-style-type: none"> <li>6. develop a response with a weak or unfocused idea, attempted organization, and little or irrelevant support,</li> <li>7. demonstrate minimal audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences, and</li> <li>8. demonstrate minimal command of spelling, grammar, punctuation, and capitalization.</li> </ul>
<b>Pre-Foundational</b>
***
Students scoring at this level <i>need to develop</i> the ability to
<ul style="list-style-type: none"> <li>2. make at least minimal connections between text and personal experiences,</li> </ul>
***
<ul style="list-style-type: none"> <li>5. develop a response to a writing task using a general focus, attempted organization, and minimal support,</li> <li>6. demonstrate at least minimal audience awareness through use of simple vocabulary and simple sentences, and</li> <li>7. demonstrate at least minimal command of spelling, grammar, punctuation, and capitalization.</li> </ul>

B. - D. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:273 (February 2007), amended LR 33:2040 (October 2007), amended LR 36:980 (May 2010).

**§2019. Grade 11 Achievement Level Descriptors**

A. Grade 11 Science Achievement Level Descriptors

<b>Basic</b>
***
Students scoring at this level generally exhibit the ability to ***
With inquiry as the core, students at the <i>Basic</i> level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.
<b>Approaching Basic</b>
***
<b>Foundational</b>
***
<b>Pre-Foundational</b>
***

B. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:274 (February 2007), amended LR 33:2041 (October 2007), LR 36:981 (May 2010).

**Subchapter E. LAA 2 Assessment Structure**

**§2031. Double Jeopardy Rule**

A. If a school administers a LAA 2 test that the student has already passed and the student scores below approaching basic on the retest, the passing score will be used to determine the student’s eligibility for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010).

**§2033. Rescores**

A. The district test coordinator must file a request with the scoring contractor within 20 working days from the date the school district receives the individual student scores. All requests must be made on or before the deadline date identified by the testing contractor and the LDE. Requests received after the deadline will not be honored.

B. Only rescores of tests from the most recent administration may be requested.

C. All requests for rescoring require a fee, which is established by and paid to the scoring contractor.

D. Students may request a rescore of their LAA 2 tests at specified achievement levels and scaled score ranges. If the following criteria are met, the rescore will be expedited:

1. English Language Arts and Mathematics. The test has a scaled score 10 points below the Approaching Basic achievement level.

2. Science and Social Studies. The test has a scaled score 10 points below the Approaching Basic achievement level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010).

**§2035. LAA 2 Administration Rules**

A. Students enrolled in grade 10 for the first time must take LAA 2 English Language Arts and Mathematics tests during the spring administration.

B. Students repeating grade 10 shall take the LAA 2 Science and Social Studies tests during the spring administration.

C. Students enrolled in grade 11 for the first time must take LAA 2 Science and Social Studies tests during the spring administration.

D. Students enrolled in grade 11 shall take Science and Social Studies tests unless the student was enrolled in grade 11 for two years.

E. Students promoted from grade 9 to grade 11 may take English Language Arts and Mathematics tests during the fall retest administration and then take the Science and Social Studies tests during the subsequent spring administration.

F. Students in block schedules who are classified as tenth graders in the fall of their second year and as eleventh graders by the subsequent spring test administration are

permitted to take all LAA 2 content-area tests—English Language Arts, Mathematics, Science, and Social Studies—for the first time during that spring test administration.

G. If students enrolled in grade 12 have not yet met the LAA 2 requirements to be eligible for a standard high school diploma, they may take all content-area tests—English Language Arts, Mathematics, Science, and Social Studies—during the fall retest administration.

H. If a district holds “graduation” prior to the release of spring test scores, the LEA must have in place a policy for graduation without the test scores.

I. There is no ending age limit for students to retest in LAA 2, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

J. If a student was issued a GED diploma and subsequently meets the requirements of the LAA 2, the student may surrender the GED diploma and be issued a standard high school diploma.

K. When administrative errors are made in testing, the state superintendent of education may determine how to remedy the error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010).

#### **§2037. Summer Retest Administration**

A. Students who were enrolled in grades 10 and 11 for the first time during the spring test administration and did not score approaching basic in the required LAA 2 tests are eligible for the summer retest administration.

B. Students who were enrolled in grades 10 and 11 in public schools for the first time during the spring test administration but who were absent during testing are eligible for the summer retest administration.

C. Students who enrolled in and attended grades 10 and 11 after the spring test administration and before the close of the regular academic year are eligible for the summer retest administration.

D. Students who enroll in grades 10 and 11 after the close of the regular academic year but did not attend public schools during the academic year are not eligible for the summer retest administration. They must test during the fall retest administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:982 (May 2010).

#### **§2039. LAA 2 Transfer Students**

A. The following rules apply for transfer students who are Louisiana residents transferring into the Louisiana public school district from out-of-state schools, nonpublic schools, or approved home study programs who meet LAA 2 Participation Criteria, meet all graduation requirements for a high school diploma as established in Bulletin 741.

1. Requirements for students who have never been in membership in a Louisiana public school and are transferring from out-of-state schools, from Louisiana

nonpublic schools, or from an approved home study program are as follows.

a. A student who entered the ninth grade during the 2005–2006 school year and thereafter and who transferred to a Louisiana public school at or below the ninth grade shall take and pass the English Language Arts and Mathematics sections and either the Science or the Social Studies test of LAA 2.

b. A student who entered the ninth grade in 2005–2006 and thereafter and who is classified by the local school district as a tenth grade student shall take and pass the English Language Arts and Mathematics tests and either the Science or the Social Studies test of LAA 2.

c. A student who entered the ninth grade in 2005–2006 and thereafter and who is classified by the local school district as an eleventh grade student shall take and pass either the Science or the Social Studies test of the LAA 2.

d. A student who entered the ninth grade in 2005–2006 and thereafter and who is classified by the local school district as a twelfth grade student shall not be required to take any part of the LAA 2.

2. A student who was in initial membership in Louisiana public schools as a student in grades K through 6 shall adhere to the following policy.

a. A student who returns in the seventh and/or eighth grade for a period in membership of 160 days total shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

b. A student who returns in the ninth grade shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

c. A student who returns and is classified as a tenth grade student shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

d. A student who returns and is classified as an eleventh grade student shall take and pass either the Science or the Social Studies test of the LAA 2.

e. A student who returns and is classified as a twelfth grade student shall not be required to take any part of the LAA 2.

3. A student who was in initial membership in Louisiana public schools in the seventh and/or eighth grade for a period of 160 days total, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

4. A student who was in initial membership in Louisiana public schools as a ninth grade student, transferred out, and subsequently returned at any grade level shall be required to take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

5. A student who was in initial membership in Louisiana public schools as a tenth grade student, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the LAA 2.

6. A student who was in initial membership in Louisiana public schools as an eleventh grade student, transferred out, and subsequently returned at the eleventh- or twelfth-grade level shall take and pass either the Science or the Social Studies test of the LAA 2.

7. A student who was in initial membership in Louisiana public schools as a twelfth grade student, transferred out, and subsequently returned as a twelfth grader shall not be required to take any part of the LAA 2.

8. All membership in grades 7 through 11 must be considered when determining which test to administer to a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:982 (May 2010).

### **§2041. Student Membership Determination**

A. Student membership is determined when a student in school is identified with the following minimum required identification elements:

1. state identification number;
2. full legal name;
3. date of birth;
4. sex;
5. race;
6. district and school code;
7. entry date; and
8. grade placement.

(Adapted from Section 10, page 10.1, Student Information System User's Guide, LDE.)

B. A student must be in membership in a Louisiana public school(s) for 160 days per year or 80 days per semester in order to be eligible to receive grades (1103G, Bulletin 741, LDE).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:983 (May 2010).

## **Chapter 33. Assessment of Special Populations**

### **§3303. Special Education Students**

A. All special education students must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Special education students who meet specific participation criteria as stated in Bulletin 1530 Louisiana IEP Handbook for Students with Disabilities and whose Individualized Education Plans (IEPs) indicate they will participate in an alternate assessment may participate in an alternate assessment, such as the LEAP Alternate Assessment, Level 1 (LAA 1) or LEAP Alternate Assessment, Level 2 (LAA 2). The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

1. Individualized Education Plan. According to the 2004 amendments to the Individual with Disabilities

Education Act (IDEA), accommodations are provided in regular classroom instruction based on a student's needs and are documented in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 36:983 (May 2010).

### **§3307. Limited English Proficient Students**

A. - B.6.c. ...

C. Approved Accommodations for LEP Students

1. The following accommodations are to be provided for LEP students participating in the LEAP, GEE, *i*LEAP, LAA 2, and EOC assessments.

1.a. - c. ...

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010).

## **Chapter 35. Assessment of Students in Special Circumstances**

### **§3501. Approved Home Study Program Students**

A. - B. ...

C. Students from state-approved home study programs have the option of taking the grades 4 and 8 LEAP Science and Social Studies tests.

D - G. ...

H. Students enrolled in state-approved home study programs are not eligible to participate in LAA 1, LAA 2, or ELDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1-17: 391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 36:983 (May 2010).

Jeanette B. Vosburg  
Executive Director

**RULE**

**Office of the Governor  
Board of Louisiana River Pilot Review and Oversight**

General Provisions  
(LAC 46:LXX.Chapters 150 and 152)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Louisiana River Pilot Review and Oversight hereby promulgates rules and regulations. The rules and regulations are in the public's interest and will promote public safety. This board has a strong commitment to the public due to the safety sensitive nature of the duties performed by state commissioned pilots. Chapter 150 pertains to the general provisions of the board. Chapter 152 pertains to the general provisions of the board as it relates to domicile, meetings and officers of the board as well as the powers and duties of the board.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**LXX. River Pilots**

**Subpart 6. Board of Louisiana River Pilot Review and Oversight**

**Chapter 150. General Provisions**

**§15001. Authority**

A. These rules and regulations are promulgated in accordance with the provisions of R.S. 34:1135.A in order to provide for the implementation, enforcement, and administration of R.S. 34:1131 et seq., which provide for the creation, powers, duties, and responsibilities of the Board of Louisiana River Pilot Review and Oversight. These regulations are further promulgated in accordance with the Administrative Procedure Act (APA), R.S. 49:950 et seq., to the extent that any procedure in the APA does not conflict with any provision of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 34:1135.A.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:984 (May 2010).

**§15003. Purpose**

A. The purposes of these rules and regulations are as follows:

1. to establish rules and regulations for the procedures to be used by the board in performing its duty to request, receive, and review reports prepared by the Board of Commissioners or Examiners and its rendering of decisions:

- a. not to act on an accident report;
- b. approving a consent discipline; or
- c. rendered in a formal disciplinary adjudication.

2. to establish rules and regulations for the procedures to be used by the board in performing its duty to receive appeals from a formal disciplinary proceeding before the Board of Commissioners or Examiners;

3. to establish rules and regulations for the procedures to be used by the board in performing its duty to receive sworn complaints against any pilot from any source for actions taken by a pilot while in the performance of his duties;

4. to establish rules and regulations for the procedures to be used by the board in performing its duty to submit an

annual report to the general counsel of the Department of Transportation and Development on accident investigations;

5. to establish rules and regulations for the procedures to be used by the board in requiring that a permanent accident or incident record on each pilot be maintained as well as an accident investigation file as long as the pilot involved has a state commission;

6. to establish rules and regulations for the procedures to be used by the board in performing its duty to submit accident reports in which state property is involved or damaged to the general counsel of the Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 34:1135.C - K.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:984 (May 2010).

**§15005. Definitions**

A. The following terms as used in these rules and regulations shall have the following meanings:

*Accident*—any occurrence involving a vessel that results in any allision, collision, grounding, loss of life, or personal injury that requires professional medical treatment (treatment beyond first aid).

*Adjudication*—the board's or the Board of Commissioners' or Examiners' process for the formulation of a decision or order.

*Administrative Complaint*—any written document filed by an investigating officer with the board or the Board of Commissioners or Examiners in the procedure prescribed in §152117 of this rule.

*Administrative Procedure Act* or *APA*—the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

*Alcohol*—any intoxicating beverage, fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol, and any distilled spirit as defined in 27 U.S.C. 211.

*Board of Commissioners or Examiners*—the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:941 et seq., the Board of River Port Pilot Commissioners for the Port of New Orleans, established in R.S. 34:991 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, established in R.S. 34:1041 et seq., and the Board of River Port Pilot Commissioners and Examiners for the Calcasieu River Waterway, established in R.S. 34:1072 et seq.

*Board or Board of Review and Oversight*—the Louisiana River Pilot Review and Oversight, established by R.S. 34:1131 et seq.

*Complaint*—any sworn typewritten submission filed by any source with the board against any state commissioned pilot for actions taken by the pilot while in the performance of his duties, including acts of misconduct, carelessness, incompetence, intoxication, negligence, the refusal to offer timely pilotage services without just cause, abuse of legally prescribed medication and illegal use of controlled dangerous substances.

*Controlled Dangerous Substance*—any drug as defined in R.S. 40:961.7 and R.S. 40:964, and any controlled substance in schedules I through V of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1308.11 through 1308.15.

*Decision or Order*—the final disposition of any matter decided by the board involving a state commissioned pilot while the pilot is acting under his state commission. A decision or order shall also mean the final disposition of any matter decided by the Board of Commissioners or Examiners involving a state commissioned pilot.

*Drug*—all controlled dangerous substances as defined in R.S. 40:961.7 and R.S. 40:964, and any substance, by whatever official name, common or usual name, chemical name, or brand name designated in Schedules I-V, 21 CFR 1308.11-15.

*Grounding*—a beaching or running aground in which the vessel is damaged or needs assistance to be refloated.

*Incident*—

- a. any accident as defined in this Subsection;
- b. any sworn complaint involving a state commissioned pilot while acting under his commission; or
- c. any other event involving a Louisiana state commissioned pilot while acting under his commission that, in the discretion of any member of the Board of Commissioners or Examiners, justifies further investigation.

*Incident Report*—the form provided by the board to be completed and submitted by the Board of Commissioners or Examiners involving any incident.

*Notice or Issue Notice or Service*—in connection with these regulations and the requirements for notice in the APA, R.S. 49:955.B, means that all references to the providing and delivering of service of written documents or pleadings shall be by personal service or certified mail, return receipt requested, or by means of a commercial overnight carrier.

*Party*—in connection with an appeal of a formal disciplinary adjudication before the Board of Commissioners or Examiners, means the pilot who is the subject of the investigation, the Board of Commissioners or Examiners, and the investigator appointed by the Board of Commissioners or Examiners.

*Pilot*—as defined in R.S. 1131(3), means those pilots as designated in R.S. 34:941, 992, 1041, and 1071.

*Prescribed Medication*—controlled dangerous substance distributed by the authorization of a licensed physician as defined in R.S. 40:961.31.

*Report*—any written submission, in the manner prescribed by §152107 of this Subpart prepared by the Board of Commissioners or Examiners as follows:

- a. relating to an accident involving any state commissioned pilot while the pilot is acting under his state commission;
- b. relating to a consent discipline agreed to by and between a state commissioned pilot and the Board of Commissioners or Examiners; and
- c. relating to a formal disciplinary adjudication rendered by the Board of Commissioners or Examiners.

*Rule*—each statement, guide, or requirement of the board for conduct or action relating to its duties, or which prescribes the procedure or practice requirements of the board.

*Rulemaking*—the process employed by the board for the formulation of a rule.

*Sworn*—in connection with a complaint, means the allegations made by the complainant that are given in writing and under oath before a notary public in which the

complainant swears to the truthfulness of the allegations, subject to the penalties for perjury.

**AUTHORITY NOTE:** Promulgated in accordance with 21 CFR 1308.11-15, 27 U.S.C. 211(a)(5) and 27 CFR 1.10, R.S. 34:1129.2, R.S. 1131(3), R.S. 34:1133.G, R.S. 34:1135.F, R.S. 34:1135.C – E, and R.S. 49:951.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:984 (May 2010).

## **Chapter 152. Board of Louisiana River Pilot Review and Oversight**

### **Subchapter A. General Provisions**

#### **§15201. Domicile and Meetings**

A. The domicile of the board shall be the Parish of Orleans which address is presently 201 St. Charles Avenue, 31st Floor, New Orleans, LA 70170 or such other address as the board members establish from time to time.

B. The board shall meet at least twice a year, at times and places of its choosing. Other meetings may be held at the discretion of the board. Meetings may be called by the chairman, or at the written request of any three members of the board.

C. The board shall be composed of 11 members. Six members of the board shall constitute a quorum, but any decision of the board shall be obtained by a majority vote of the members of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1133.A, R.S. 34:1134.A.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:985 (May 2010).

#### **§15203. Officers of the Board**

A. The officers of the board shall be a chairman, a vice chairman, and a secretary/treasurer, who shall be elected at the first meeting of the board, and annually thereafter.

B. Elections of officers shall be held annually. There shall be no limit to the number of times a member of the board may be elected to any office.

C. The duties of the officers shall be:

1. Chairman - shall preside at all board meetings and shall be the Chief Executive Officer, shall call all board meetings, shall conduct all meetings in accordance with Robert's Rules of Order, and shall be the designee of the board with the authority to request reports under the provisions of R.S. 34:1135.C.

2. Vice Chairman - shall act in the absence of the chairman, and shall carry out such other assignments as may be delegated or assigned to him by the chairman.

3. Secretary/Treasurer - shall maintain the minutes of meetings and financial records, if any, shall prepare and submit the annual report under R.S. 34:1135.I, shall ensure that the Board of Commissioners or Examiners maintain accident or incident records under R.S. 34:1135.J as prescribed in §152121.B of this Chapter, shall prepare and submit accident reports under R.S. 34:1135.K, and shall provide a copy of the board's rules and regulations to all state commissioned pilots under R.S. 34:1135.L.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1134.C, and R.S. 34:1132.C.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:985 (May 2010).

## **Subchapter B. Powers and Duties**

### **§15205. Preamble**

A. No provision contained in this Subpart shall limit or supersede the duties and responsibilities of the Board of Commissioners or Examiners. Act 902, 2004 Leg., Regular Session (codified at R.S. 34:1131 et seq.) created the Board of Louisiana River Pilot Review and Oversight and the purpose was to provide review and oversight of decisions by the Board of Commissioners or Examiners regarding the actions taken by any pilot while the pilot is acting under his state commission. The Board, acting in its role, performs its duty under R.S. 34:1135.C to request, receive, and review reports prepared by the Board of Commissioners or Examiners similar to court of appeals in the judicial system but, unlike a court of appeals, also provides a forum for appeals from any party to a formal disciplinary proceeding before the Board of Commissioners or Examiners, and also provides a forum for sworn complaints to be filed, pursuant to its duty under R.S. 34:1135.G to receive sworn complaints against any pilot.

**AUTHORITY NOTE:** Promulgated in concurrence with R.S. 34:1135.C, F, G, M.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:986 (May 2010).

### **§15207. Reports to the Board**

A. The Board of Commissioners or Examiners shall submit reports to the board related to accidents involving any state commissioned pilot subject to this Rule while the pilot is acting under his state commission, reports as to consent disciplines agreed to by and between a state commissioned pilot and the Board of Commissioners or Examiners, and reports as to formal disciplinary adjudications rendered by the Board of Commissioners or Examiners.

B. The chairman of the Board of Commissioners or Examiners shall submit the executed original report to the board with a copy to each of the members of the board and one certified copy to the affected state commissioned pilot.

C. The form and format of the report shall be set out by the board from time to time to allow for changes in technology.

D. On the outside of the front cover of each written report, there shall be inscribed with proper separation of lines and spaces, and in the following order:

1. the title of the Board of Commissioners or Examiners that prepared and submitted the report;
2. the date of the accident; and
3. the name of the pilot.

E. The contents of the report shall at least contain:

1. the date of the meeting of the Board of Commissioners or Examiners;
2. the result of the vote of the Board of Commissioners or Examiners;
3. the signature of the chairman certifying the results of the vote;
4. an excerpt of the minutes of the meeting of the Board of Commissioners or Examiners at which a decision was reached, whether that decision be not to act, a consent discipline, or a formal disciplinary adjudication;

5. the relevant supporting documents:

a. if no action, then a copy of the investigator's findings of fact, and/or report, and/or recommendations that were submitted to the Board of Commissioners or Examiners and upon which the decision to take no action was based; or

b. if a consent discipline or similar disposition, then the investigator's report submitted to the Board of Commissioners or Examiners including any findings of the fact and recommendation and the signed consent order; or

c. if an adjudication, then the investigator's report submitted to the Board of Commissioners or Examiners including any findings of the fact and recommendation and a copy of the Board of Commissioners' or Examiners' decision or adjudication order, which may contain findings of fact and conclusions and recommendations.

F. After receipt of the report, any individual board member may request in writing through the chairman that the report be supplemented by the Board of Commissioners or Examiners other relevant materials in the order in which such documents were filed, including:

1. the preliminary accident or incident report;
  2. the investigator's findings of fact, and/or report, and/or recommendations;
  3. the investigator's formal administrative complaint;
- or
4. the transcript of the hearing.

G.1. The chairman shall forward the individual board member's written request for supplemental documents to the Board of Commissioners or Examiners and forward a copy to all other members of the board.

2. In the event the Board of Commissioners or Examiners is unable or unwilling to provide the requested supplemental documents then the board, at its next meeting, may review the individual board member's written request and the Board of Commissioners or Examiners position and may consider by vote of the board ordering the Board of Commissioners or Examiners to produce the requested documents under §152107.F.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1135.C-E, and Uniform Rule 2-1.7.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:986 (May 2010).

### **§15209. Requests from the Board**

A. The board may request, at any time, completed reports from the Board of Commissioners or Examiners related to accidents involving any state commissioned pilot subject to this Rule while the pilot is acting under his state commission. Reports are considered completed upon the Board of Commissioners or Examiners reaching a decision as set out in §152107.E.4 of this Chapter. As to the completed reports, the Board of Commissioners or Examiners shall submit its report to the Board within 14 days after receiving a request from the board, if not previously submitted. Additionally, the board may request an updated status of any matter reported in an incident report previously submitted to the board by the Board of Commissioners or Examiners.

B. The board shall issue notice along with an executed original of each request to the Board of Commissioners or Examiners at its official address.

AUTHORITY NOTE: Promulgated in accordance with 33 CFR §20.302, and R.S. 34:1135.C.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:986 (May 2010).

**§15211. Board's Action on Reports of Accidents, Consent Disciplines, or Formal Disciplinary Adjudications**

A.1. After receiving a report on any accident, consent discipline, or formal disciplinary adjudication from the Board of Commissioners or Examiners, the board shall act on the report at its next meeting, provided it is submitted 30 days prior to the meeting, and shall either:

a. take no further action, thereby consenting to the action of the submitting Board of Commissioners or Examiners;

b. request additional information under §152109 of this Chapter, in which event the Board of Commissioners or Examiners shall submit the additional information within 30 days of receiving notice from the board, and the report shall be reconsidered along with the additional information at the board's next meeting provided it is resubmitted 30 days prior to the meeting; or

c. remand the matter to the submitting Board of Commissioners or Examiners for further investigation or proceedings, the results of which are to be submitted to the board.

2. The board at its discretion may waive the 30-day submission requirement and elect to act on an untimely submitted report. If the board does not waive the 30-day submission requirement, then the untimely report will be considered by the board at its next meeting.

B. Within 60 days of its meeting, the board shall notify the Board of Commissioners or Examiners in writing of its action under Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1135.C-E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:987 (May 2010).

**§15213. Appeals from Formal Disciplinary Adjudications**

A. Any aggrieved party to a formal disciplinary proceeding before the Board of Commissioners or Examiners has the right, at the party's discretion, to obtain a review of the final decision of the Board of Commissioners or Examiners by filing a written notice of appeal with the board. The party shall file the notice of appeal with the board within 45 days after the Board of Commissioners or Examiners issued notice of its final decision, and shall serve a copy of the notice of appeal on the parties to the formal disciplinary proceeding.

B. In the event of parallel appeals to the board and the state district court, the board, if it completes its review before the state district court renders a decision, may intervene in the state district court's Appeal to advise the court of its findings.

AUTHORITY NOTE: Promulgated under La. R.S. 34:1135.F, and R.S. 49:964(1); based on 33 CFR §20.1001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:987 (May 2010).

**§15215. Procedure for Appeal**

A. An appeal is taken by the timely filing of a notice of appeal with the board and the Board of Commissioners or Examiners.

B. Upon the timely filing of a notice of appeal, the Board shall issue notice that the appeal has been timely filed to the counsel of all other parties, to the respective Board of Commissioners or Examiners, and to any party not represented by counsel.

C. The return day of the appeal shall be 45 days from the date notice is given that the testimony is transcribed, which completes the record of proceedings.

D. The record of proceedings shall constitute the official record on appeal and consists of the transcript of testimony at the hearing, all exhibits received into evidence, any items marked as exhibits and not received into evidence, all motions, all applications, all requests, the Board of Commissioners or Examiners' decision, all orders, and all rulings.

E. The Board of Commissioners or Examiners shall prepare the record of proceedings and lodge it with the Board on or before the return day. Failure of the chairman of the Board of Commissioners or Examiners to prepare and lodge the record timely on appeal shall not prejudice the appeal.

F. The record of proceedings prepared by the Board of Commissioners or Examiners to be lodged with the board shall be certified and dated by the chairman of the Board of Commissioners or Examiners upon completion.

G. Once the record of proceedings has been lodged, the board shall issue notice to the counsel of all other parties, to the respective Board of Commissioners or Examiners, and to any party not represented by counsel.

H. The appeal commences when the Board issues an order granting appeal and issues a notice of appeal to the counsel of all other parties, to the respective Board of Commissioners or Examiners, and to other parties not represented by counsel.

I. The board and the parties shall provide notice as follows:

1. The board shall serve upon each party to the proceeding a copy of each document issued by the board in the proceeding.

2. Unless the board orders otherwise, each person filing a document with the secretary/treasurer shall serve upon each party a copy of it.

3. If a party filing a document must serve a copy of it upon each party, each copy must bear a certificate of service, signed by or on behalf of the filing party, stating that he has so served it.

J. The secretary/treasurer of the board shall post the calendar of assignments for hearing at the official address of the board and issue notice to all counsel of record, and to any party not represented by counsel, not less than 30 days prior to the date fixed for the hearing of an appeal on the calendar, provided, however, that the 30 day notice herein shall not be applicable when there will be no oral argument.



K. Public notice. Upon the granting of an appeal under R.S. 34:1135.F, the board shall provide public notice of the hearing. The notice shall be posted in the domicile of the board, at the official address of the board and provided to anyone who may request notice.

L. Preparation of Briefs. The procedures for filing briefs, requesting and conducting oral arguments, and serving notice shall be taken in the same manner as in any civil appeal under the Louisiana Uniform Rules of Court for the Courts of Appeal, as they exist now and as they may be amended.

M. Hearings. The board may order oral argument based on the record of proceedings submitted. The order of argument, length of time, reading from briefs, and use of textual materials and exhibits shall be in the same manner as in any civil appeal under the Louisiana Uniform Rules of Court for the Courts of Appeal, as they exist now and as they may be amended.

N. Actions Available to the board. In an appeal, following notice and a hearing, the board may acquit the pilot or may impose its own sanctions against a pilot, including but not limited to reprimand of the pilot, ordering pilot to participate in remedial training, impose a fine not to exceed \$10,000, order the pilot to pay the costs of the hearings inclusive of attorney fees, or recommend to the governor that the pilot's commission be suspended or revoked.

O. Decision or Judgment. The board shall render a decision or judgment as to an appeal at the hearing or at its next meeting, which shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with the rules of the board, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.

P. Notice of Judgment. Notice of the judgment of the board shall be issued by the board to all counsel of record, to the respective board of Commissioners or Examiners, and to all parties not represented by counsel. The board shall file a certificate in the record showing the date on which and the names of all parties or persons to whom the notice of judgment was delivered or mailed.

AUTHORITY NOTE: Promulgated in accordance with 33 CFR §20.304, 33 CFR §20.401, 33 CFR §20.402, 33 CFR §20.903, C. Civ. P. Art. 2121, C. Civ. P. Art. 2125, C. Civ. P. Art. 2127, C. Civ. P. Art. 2127.1, R.S. 34:1135.F, R.S. 49:964(1) based on 33 CFR §20.1001, R.S. 49:958, La. Uniform Rules, Courts of Appeal 2-11.9.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:987 (May 2010).

#### **§15217. Sworn Complaints to the Board**

A. Any source may file a sworn complaint within one year of the alleged acts complained of.

B. The board shall receive any sworn complaint from any source against a state commissioned pilot while in the performance of his duties, including acts of misconduct, carelessness, incompetence, intoxication, negligence, or the refusal to offer timely pilotage services without just cause, and any sworn complaint against a pilot for abuse of legally prescribed medication and/or illegal use of controlled dangerous substances.

C. Any sworn complaint submitted by any source to the board shall be typewritten and submitted on plain paper and shall include the date and time of the incident, a description of what happened, the type of incident, casualties, location, conditions, name of vessel piloted, if known, any other vessels, structures, or objects involved, the name of the pilot, if known, and any allegations against the pilot, and shall be given in writing and under oath before a notary public in which the complainant swears to the truthfulness of the allegations, subject to the penalties for perjury.

D. If a sworn complaint is not submitted in the prescribed manner, the board shall return it, with an explanation of error, and without prejudice to the sender to properly refile.

AUTHORITY NOTE: Promulgated under La. R.S. 34:1135.G.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:988 (May 2010).

#### **§15219. Board's Action on Sworn Complaints**

A. After receiving a sworn complaint as defined in §150105 of this Subpart from any source, the board shall act on the complaint at its next meeting provided it is submitted at least 30 days prior to the meeting. Within 60 days of its meeting, the board shall notify the complainant and the respective Board of Commissioners or Examiners in writing of its action to either:

1. refer the matter to the appropriate Board of Commissioners or Examiners for investigation, the results of which are to be submitted to the board in the form of a report; or

2. conduct investigations and, if necessary, conduct hearings pursuant to the Administrative Procedure Act and the rules adopted by the board.

B. Conducting Investigations – After the board makes a decision under §15219.A.2 of this Chapter, the board may begin its investigation under the following procedures:

1. The board may appoint an investigating officer to investigate the complaint and report to the board.

2. Following the board's decision to conduct an investigation under §15219.A.2 of this Chapter, above, and prior to the acceptance of an administrative complaint, which begins the commencement of administrative proceedings and noted in §15219.I of this Chapter, the Board shall follow the provisions of the Louisiana Open Meetings Law, R.S. 42:6.1(A)(4), which provides that investigative proceedings regarding allegations of misconduct may be held in an executive session pursuant to R.S. 42:6.

3. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

4. Once authorized under §15219.B.2 of this Chapter, the investigating officer, who may be an active or retired member of Board of Examiners of Bar Pilots for the Port of New Orleans, the Board of River Port Pilot Commissioners for the Port of New Orleans, the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, or the Board of River Port Pilot Commissioners and Examiners for the Calcasieu River Waterway. He shall be assisted by an attorney, named as

independent prosecutor by the board. In the event that the investigating officer, as contemplated by either §152119.B of this Chapter, is an active member of the board, he shall be recused from any participation in the decision of the case.

5. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

C. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the state commissioned pilot, the Board of Commissioners or Examiners, and the complainant, by regular mail, of the facts or conduct on which the complaint is based, and offer the pilot an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the pilot is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

D. If the state commissioned pilot is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall, with the assistance of the board-appointed prosecutor, initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

E. The written administrative complaint shall name the accused state commissioned pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent; and

3. the statutory or regulatory provisions alleged to have been violated by respondent.

F. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel (the prosecutor) engaged by the board to present the case at the evidentiary hearing before the board.

G. The board may either accept or reject the administrative complaint.

H. If the board rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

I. Administrative Proceedings Commence: If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or

respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a pilot has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

J. A written notice of the administrative complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent and the Board of Commissioners or Examiners. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

K. The case shall be prosecuted by the independent prosecutor, also referred to as administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the Board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

L. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

M. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the State of Louisiana. Upon receipt of service of an administrative complaint pursuant to these rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the Board of the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

N. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed with the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

1. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection N of this Section.

2. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the

requirements of this Section and shall return such filing to the sender with an explanation of error and without prejudice.

O. Motions. Motions for continuance of hearing, for dismissal of the proceeding, and all other pre-hearing motions shall be filed not later than 30 days following service of the administrative complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefore. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

1. A motion for continuance of hearing shall be filed within the delay prescribed by this Subpart, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

4. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board with respect to the proceeding for ruling. The presiding officer in each matter before the board may, in his discretion, refer any pre-hearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire board.

5. Pre-hearing motions shall ordinarily be ruled upon by the presiding officer or the board, as the case may be, on the papers filed without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefore, the presiding officer may grant opportunity for hearing by oral argument on any pre-hearing motion.

P. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of this Section, the chairman of the board or the presiding officer shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

Q. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

R. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a pre-hearing conference be held among such counsel, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

S. Following such pre-hearing conference the parties shall, and without such conference the parties may, agree in writing on a pre-hearing stipulation which should include:

1. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

T. Adjudication hearings, being the hearings conducted on the merits of the administrative complaint, shall be conducted in open session in accordance with the Louisiana Open Meetings Law, R.S. 42:6.

U. Adjudication hearings, including the presentation of facts and arguments, examination and cross-examination of witnesses, offering and introduction of evidence and exhibits, testimony, rulings on evidentiary and procedural questions, compiling of the record, findings of fact, weighing of evidence and notice of facts, administration of oaths, and regulation of the hearing shall be conducted in accordance with the provisions of the APA, R.S. 49:955 to 956, except that Notice as defined in §150105 of this Subpart shall govern all requirements concerning notice, issue of notice, and service. Additionally, the use of the term "agency" or "agencies" in the APA shall mean board, and R.S. 49:956(d) is modified in part by the provisions of R.S. 34:1135.N.

V. Except as otherwise governed by the provision of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied, and the provisions of APA, R.S.49:960 shall be applicable to the board and the parties and use of the term "agency" or "members" or "employees" shall mean board, board members, and staff.

W. In any adjudication hearing, the board's deliberations may be held in executive session pursuant to R.S. 42:6.1.A(1).

X. In any adjudication hearing, the board's decision shall be in an open meeting.

Y. Following notice and a hearing, the board may either:

1. acquit the pilot; or

2. impose sanctions against the pilot, including but not limited to reprimand of the pilot, order the pilot to participate in remedial training, impose a probationary period, impose a fine not to exceed \$10,000 order the pilot to pay the costs of the hearings inclusive of attorney fees, or recommend to the governor that the pilot's commission be suspended or revoked.

3. The board shall have the authority to suspend a pilot's commission in the event of an emergency pursuant to the emergency procedures set out in the APA, R.S. 49:961, which provides that no revocation, suspension, annulment, or withdrawal of any state commission is lawful unless, prior to the institution of agency proceedings, the board gives notice by mail to the state commissioned pilot of facts or conduct which warrant the intended action, and the state commissioned pilot is given an opportunity to show compliance with all lawful requirements for the retention of the state commission. If the board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a state commission may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1135.G, R.S. 34:1135.N, R.S. 42:6.1, R.S. 42:6, R.S. 42:6.1(A)(4), R.S. 49:961.C, R.S. 49:955-56, Pilot Rules, Title 46 §304.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:988 (May 2010).

#### **§15221. Annual Reports**

A. In compliance with R.S. 34:1135.I, the board requires that the Board of Commissioners or Examiners maintain a permanent accident or incident record on each pilot it regulates as well as an accident investigation file as long as the pilot involved has a state pilot commission. The board shall have access to these records.

B. The board shall submit an annual report to the general counsel of the Department of Transportation and Development on any accident investigation.

1. The report shall identify the accident and location, the pilot involved, a description of the damage sustained, and the action taken by the board or the Board of Commissioners or Examiners. The annual report shall be submitted on or before the last day of February for accidents occurring during the previous year.

2. The report shall be submitted in whatever form the Department of Transportation and Development may require.

C. The board shall submit an accident report to the general counsel of the Department of Transportation and Development in those accidents in which state property is involved or damaged as soon as practically possible.

1. The report shall include a description of the circumstances surrounding the accident, including but not limited to the time and location, the state property involved or damaged, the name of the pilot, the name of the vessel, the name of the vessel's agent, and the name of the insurer of the vessel.

2. The report shall be submitted in whatever form the Department of Transportation and Development may require.

AUTHORITY NOTE: Promulgated based on R.S. 34:1135.I, R.S. 34:1135.K.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:991 (May 2010).

#### **§15223. Rules Supplied to State Commissioned Pilots**

A. The board shall provide to all state commissioned pilots a copy of the board's rules and regulations.

B. In compliance therewith the Board of Examiners or Commissioners shall on behalf of the board furnish the state commissioned pilots they regulate a copy of the board's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1135.L.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:991 (May 2010).

#### **§15225. Evidentiary Issues**

A. Considering the purpose of the board and the Boards of Commissioners or Examiners is to regulate state commissioned pilots and not to determine issues of liability or negligence, certain prohibitions concerning the use of its reports and testimony from their members and employees are hereby adopted:

1. The discovery of and admissibility as evidence in a civil proceeding of the reports of the board or the Board of Commissioners or Examiners (other than in an administrative proceeding initiated by the board or the Board of Commissioners or Examiners) involving a state commissioned pilot is prohibited. The term "reports" includes findings of fact, opinions, recommendations, deliberations, and conclusions.

2. The use of any form of discovery, including depositions of members of the board or the Board of Commissioners or Examiners, its employees, investigators, counsel, and prosecutors, and the compelling or allowing of their testimony in any civil or administrative proceeding relevant to the performance of their duties is prohibited, their testimony is not admissible, and the report is not considered the report of an expert.

3. The board and the Board of Commissioners or Examiners, as well as its members, employees, investigators, counsel, and prosecutors may enforce these provisions by means of injunctive relief.

4. If the court grants injunctive relief as sought by the board and the Board of Commissioners or Examiners, or any of its members, employees, investigators, counsel, and prosecutors, the court may award to the board, the Board of Commissioners or Examiners, or any of its members, employees, investigators, counsel, or prosecutors attorneys fees and costs incurred against the party attempting to use the information prohibited in R.S. 34:1135.N.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1135.N.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Louisiana River Pilot Review and Oversight, LR 36:991 (May 2010).

Richard Ganucheau  
Chairman

**RULE**

**Office of the Governor  
Boxing and Wrestling Commission**

Boxing and Wrestling Standards (LAC 46:XI.Chapter 1)

The Louisiana State Boxing and Wrestling Commission, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(b) and R.S. 49:967(D), has adopted the following Rule. This Rule is necessary to further promote the safety of contestants, other participants and spectators in that it supplements the existing §108, "Medical Requirements," to require participants in all sports under the jurisdiction of The Louisiana State Boxing and Wrestling Commission to provide copies of negative HIV, Hepatitis B and C test results directly to the Louisiana State Boxing and Wrestling Commission or an approved representative of the commission at least five days prior to any sanctioned event.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XI. Boxing and Wrestling**

**Chapter 1. General Rules**

**§108. Medical Requirements**

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B and Hepatitis C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at least five business days prior to any event to the event coordinator or other approved commission official with the only exception to be those allowed specifically by the coordinator on a case by case basis until such time that a national clearinghouse/database has been contracted by this commission for verification of these medical tests.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), LR 36:992 (May 2010).

Patrick C. McGinity  
Attorney

1005#033

**RULE**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4703)

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 has amended 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**

**§4703. Basic Certification**

A. ...

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a basic training course with the minimum number of training hours specified by the council for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

b. - c. ...

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with the minimum number of training hours specified by the council and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of corrections core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (effective March 26, 2001).

A.2.b. - E. ...

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).

Joseph M. Watson  
Executive Director

1005#042

## RULE

### Office of the Governor Public Defender Board

#### Capital Defense Guidelines (LAC 22:XV.Chapter 9)

The Public Defender Board, a state agency within the Office of the Governor, has adopted LAC 22:XV.Chapter 9, as authorized by R.S. 15:148. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 307 of the 2007 Regular Session of the Louisiana Legislature directed the Public Defender Board to adopt rules creating mandatory: 1) statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state; and 2) qualification standards for public defenders that ensure that the public defender services are provided by competent counsel. Said standards are to ensure that public defenders are qualified to handle specific case types which shall take into consideration the level of education and experience that is necessary to competently handle certain cases and case types, including capital cases. In compliance with the directives of Act 307, the Public Defender Board adopts these capital defense guidelines.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XV. Public Defender Board

#### Chapter 9. Capital Defense Guidelines

#### §901. Objective and Scope of Guidelines

##### A. Objective of the Guidelines and Performance Standards

1. The objective of these guidelines and associated performance standards is to create mandatory statewide guidelines and performance standards for the defense of capital cases as required by R.S. 15:148(B)(10) in order to ensure high quality legal representation for all persons facing the possible imposition or execution of a death sentence in a manner that is uniformly fair and consistent throughout the state.

2. The guidelines are principally intended to focus on the structure of capital defense service delivery. The associated performance standards are principally intended to focus on the tasks involved in the delivery of capital defense services by attorneys, investigators, mitigation specialists and supervisors.

3. These guidelines are intended to adopt and apply the guidelines for capital defense set out by the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, its associated Commentary and the *Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases*. In these guidelines, the ABA guidelines have been adapted and applied to meet the specific needs and legal requirements applicable in Louisiana while seeking to give effect to the intention and spirit of the ABA guidelines.

4. These guidelines and associated performance standards are intended to provide capital defenders and responsible agencies with specific guidance on the performance of their functions and to allow the state public

defender and the Public Defender Board to more efficiently evaluate the delivery models and performance of the capital defense services provided throughout the state.

##### B. Scope of the Guidelines

1. These guidelines and associated performance standards apply from the moment the client is taken into custody and extend to all stages of every case in which the state may be entitled to seek the death penalty, including pre-indictment proceedings, the initial and ongoing investigation, pretrial proceedings, trial, motion for new trial, sentencing, the direct appeal, state and federal post-conviction review, clemency proceedings, and any connected litigation. The guidelines and performance standards also apply to any services rendered prior to the client being taken into custody, such as where counsel assists the client in surrendering.

2. Unless specifically mentioned, these guidelines shall apply only in the case of capital defendants who are eligible for public defender services. The word "defendant" is used broadly to describe the client at all stages of every case covered by these guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:993 (May 2010).

#### §903. Adoption and Implementation of Capital Representation Plans

##### A. Adoption of Capital Representation Plans

1. The state public defender shall adopt and implement a plan formalizing the means by which high quality legal representation in death penalty cases is to be provided in accordance with these guidelines (the Louisiana Capital Representation Plan).

2. Each district public defender (or regional director where a service region has been established) shall adopt and implement a plan formalizing the means by which high quality legal representation in death penalty cases is to be provided in accordance with these guidelines and the Louisiana Capital Representation Plan (the District Capital Representation Plan).

3. The state public defender may publish a form for the District Capital Representation Plan.

##### B. Capital Representation Plans to Provide for Compliance with the Guidelines

1. The Louisiana Capital Representation Plan and the District Capital Representation Plans shall set forth how each jurisdiction will conform to each of these guidelines and meet the standards established by the performance standards.

##### C. Capital Representation Plans to Provide for Zealous Advocacy

1. All elements of the Capital Representation Plan should be structured to ensure that counsel defending death penalty cases are able to do so free from political influence, judicial interference, conflicts of interest and under conditions that enable them to provide zealous advocacy in accordance with the Louisiana Rules of Professional Conduct. The Capital Representation Plans should be structured to allow these goals to be achieved in a cost-effective and fiscally responsible manner.

2. While ensuring that the performance of the defense function is free from judicial interference, defense counsel should:

a. maintain adherence to the Rules of Professional Conduct;

b. manifest a professional attitude toward the judge, opposing counsel, witnesses, jurors, and others in the courtroom; and

c. should not knowingly disobey an obligation under the rules or rulings of a court, except for an open refusal based on an assertion that no valid obligation exists.

#### D. Capital Representation Plans to Provide for Case Supervisor in Every Case

1. The Capital Representation Plan shall provide that for each capital case a case supervisor will be specifically identified. Each case supervisor must be certified as lead counsel under these guidelines.

2. Where lead counsel in the case is an employee of a public defender office or defender organization, the supervisor will be the director of that office or organization, or a person he or she assigns to that role.

3. Where lead counsel in the case is acting under contract, the supervisor will be the director of the contracting agency, or a person he or she assigns to that role.

4. Where the director of an office, organization or contracting agency is counsel in the case, the supervisor shall be the trial level compliance officer or a person assigned by the trial level compliance officer.

5. The case supervisor is not counsel in the case but is responsible for assisting and supporting each attorney to provide representation in compliance with these guidelines. The case supervisor must monitor the representation in the case for compliance with these guidelines and associated performance standards.

6. The case supervisor may make recommendations to the defense team, resolve workload questions pursuant to §919 and report non-compliance with the guidelines to the district public defender and state public defender. The case supervisor does not have the authority to act on behalf of the defendant or to direct members of the defense team to take any action or refrain from taking any action.

#### E. Transitional provisions for capital representation plan

1. Each district public defender and the state public defender is to complete and submit to the board a capital representation plan within three months of the adoption of these guidelines by the board. The state public defender is to provide technical assistance to district public defenders to assist in completing their capital representation plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:993 (May 2010).

### §905. Designation of Responsible Agencies

#### A. Responsibility for Ensuring High Quality Legal Representation in Capital Cases

1. Subject to R.S. 15:165, the district public defender is responsible within his or her jurisdiction for:

a. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level;

b. ensuring the continuing cooperation of trial counsel and defense team members with appellate and post-conviction counsel;

c. recruitment and development of attorneys to represent capital defendants at trial level, including assisting attorneys in meeting certification requirements;

d. assigning the attorneys who will represent the defendant throughout the trial level of the case, except to the extent that the defendant has private attorneys and has not sought assistance as a partially indigent defendant;

e. monitoring the performance of all attorneys providing trial level capital representation in the jurisdiction;

f. periodically reviewing the roster of qualified attorneys in his or her jurisdiction and recommending to the state public defender the withdrawal of certification from any attorney who fails to provide high quality legal representation consistent with these guidelines; and

g. investigating and maintaining records concerning complaints about the performance of attorneys providing representation in death penalty cases within his or her jurisdiction and taking appropriate corrective action without delay.

2. The district public defender may assign these responsibilities to the state public defender by agreement with the state public defender and upon execution of an appropriate District Capital Representation Plan. Where a service region is established, the responsibilities vested in the district public defender in these guidelines may be assigned to the regional director as a part of a service delivery method for the region established under R.S. 15:160(B)(7).

3. The state public defender is responsible for:

a. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at post-sentencing, appellate level and upon any remand;

b. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at state post-conviction level;

c. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at clemency level;

d. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level where defense services are provided by a capital defense organization acting pursuant to a contract with the board;

e. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level where responsibility is assigned to the state public defender by agreement with the district public defender or where such responsibility is assigned pursuant to R.S. 15:165;

f. investigating and maintaining records concerning complaints about the performance of attorneys providing representation in cases for which he or she has responsibility under §905.A and take appropriate corrective action without delay; and

g. performing or ensuring the performance of all the duties listed in Subsection E of this Section.

**B. Independence from the Judiciary**

1. The district public defender, regional director and state public defender are to be independent of the judiciary and they, not the judiciary or elected officials, shall select lawyers for specific cases.

**C. Delegation of Responsibility for Ensuring High Quality Legal Representation in Capital Cases**

1. If the district public defender, regional director or state public defender assigns, contracts or delegates performance of its responsibilities under this Section, it shall clearly identify within the Capital Representation Plan to whom responsibility is assigned, contracted or delegated.

2. Performance of responsibilities under this Section may only be assigned, contracted or delegated to:

a. the state public defender;

b. a defender organization, that is:

i. a jurisdiction-wide capital trial office, relying on staff attorneys, members of the private bar or both to provide representation in death penalty cases. This may include a regional death penalty center as described in R.S. 15:164;

ii. a jurisdiction-wide capital appellate and/or post-conviction defender office, relying on staff attorneys, members of the private bar or both to provide representation in death penalty cases; or

iii. an independent authority, that is, an entity run by defense attorneys with demonstrated knowledge and expertise in capital representation.

3. Regardless of any contract, assignment or delegation (save for an assignment of responsibility to the state public defender or the regional director) the district public defender, regional director or state public defender remain ultimately responsible for ensuring that the responsibilities described under this Section are met.

**D. Conflict of Interest**

1. In any circumstance in which the performance of a duty under this Section would result in a conflict of interest, the relevant duty should be performed by the state public defender, a defender organization or independent authority free of a conflict of interest and identified for this purpose in the Capital Representation Plan.

2. The Capital Representation Plan shall identify an effectual system to identify and resolve such conflicts. The system will include provisions to ensure that no organization or person responsible for representing a capital defendant shall be responsible for assigning or supervising counsel for another defendant with an antagonistic defense.

3. In order to ensure that the state public defender's office remains free of conflicts in all cases, no attorney who holds a formal role in the office of the state public defender shall represent a capital defendant in the jurisdiction during the term of his or her service.

**E. Duties of State Public Defender**

1. The state public defender should, in accordance with these guidelines, perform the following duties:

a. recruit and certify attorneys as qualified to be appointed to represent defendants in death penalty cases;

b. draft and periodically update rosters of certified attorneys;

c. periodically publish the certification standards, the procedures by which attorneys are certified and how attorneys are assigned to particular cases in each district;

d. assign the attorneys who will represent the defendant at each stage of every case where the state public defender has responsibility for ensuring that the capital defendant receives high quality legal representation under §905.A;

e. monitor the performance of all attorneys and defender organizations providing representation in capital proceedings;

f. periodically review the roster of qualified attorneys and withdraw certification from any attorney who fails to provide high quality legal representation consistent with these guidelines;

g. conduct, sponsor, or approve specialized training programs for attorneys representing defendants in death penalty cases;

h. recruit and support the professional development of mitigation specialists in the state of Louisiana; and

i. ensure that each district public defender and regional director complies with his or her responsibilities under these guidelines and associated performance standards.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Public Defender Board, LR 36:994 (May 2010).

**§907. Case tracking of Capital Cases**

**A. Obligation of District Public Defender to Track All Capital Cases within Jurisdiction**

1. Each district public defender should track the arrest, indictment, procedural posture and disposition in all capital cases in his or her district up to and including sentencing stage. Tracking should include the cases of those defendants who are not currently indigent. Information gathered from the tracking of capital cases is to be promptly provided to the state public defender.

2. The district public defender's obligations under this Section remain even where the district has assigned responsibility for capital representation to the state public defender.

**B. Obligation of State Public Defender to Track Capital Cases Post-sentencing**

1. The state public defender should track the appeal, state post-conviction, federal post-conviction and clemency proceedings of every capital case in the jurisdiction.

**C. Obligation of State Public Defender to Maintain Statewide Caseload Data**

1. The state public defender should maintain and make available to the Board data describing the statewide capital caseload at each stage of a capital case.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Public Defender Board, LR 36:995 (May 2010).

**§909. Eligibility for Public Defender Services**

**A. Eligible for Services if Financially Unable to Secure Appropriate Representation**

1. A person will be eligible for public defender services if he or she is unable, without substantial financial



hardship to himself or to his dependents, to obtain competent, qualified legal representation on his own.

2. Substantial financial hardship is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, resides in public housing, or earns less than two hundred percent of the federal poverty guideline. A defendant is presumed to have a substantial financial hardship if he or she is currently serving a sentence in a correctional institution or is housed in a mental health facility.

3. Capital defendants not falling below the presumptive threshold will be eligible to receive public defender services if their particular circumstances, including seriousness of the charges being faced, monthly expenses, local private counsel rates for counsel qualified to handle capital cases, would result in a "substantial hardship" were they to seek to retain private counsel. Relevant considerations may include such factors as income or funds from employment or any other source, including public assistance, to which the accused is entitled, property owned by the accused or in which he or she has an economic interest, outstanding obligations, the number and ages of dependents, employment and job training history, and level of education. Release on bail alone shall not disqualify a person from eligibility.

4. A capital defendant meeting the above criteria will be eligible for public defender services notwithstanding that he or she has retained counsel through a collateral funding source or on a pro bono basis. A capital defendant who has retained counsel at his own expense may be eligible for public defender services subject to careful examination of his or her financial status and the possibility of seeking an order under R.S. 15:176.

#### B. Determination of Eligibility

1. The district public defender shall be responsible for determining eligibility for public defender services in each case in his or her jurisdiction. Should the district public defender be prevented from making such a determination by a conflict of interest, responsibility for the determination of eligibility will transfer to the state public defender.

2. The determination of eligibility shall not be subject to judicial or political interference.

3. A determination of eligibility in capital cases should be made as soon as possible after arrest or after the issue of eligibility has been raised.

4. Once a capital defendant is determined to be eligible for public defender services he or she shall be presumed to remain eligible through each stage of the capital case unless a formal determination of ineligibility is made.

5. Where, as a result of a change of circumstances or new information, the district public defender or state public defender believes that a defendant may not be eligible, the question of eligibility shall be investigated and a new determination made.

6. A capital defendant may be found to be eligible for public defender services notwithstanding a judicial finding that the defendant is not indigent pursuant to R.S. 15:175.

#### C. Eligibility in Capital Cases Presumed until Investigation of Eligibility Complete

1. All capital defendants are presumed eligible for public defender services until the completion of any

investigation of eligibility and a formal determination of ineligibility.

#### D. Finding of Ineligibility

1. Where a capital defendant is found to be ineligible for public defender services under this Section, the defendant may apply to the court for a determination of indigency under R.S. 15:175. If found by the court to be indigent, the defendant shall be deemed to be eligible for the purposes of this Section.

2. No capital defendant shall be found ineligible where he or she is able to provide some but not all of the funds necessary for an adequate defense. Instead, the defendant should be found eligible and an application for partial reimbursement pursued under R.S. 15:176.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:995 (May 2010).

#### §911. Assignment of Counsel

##### A. Assignment of Specific Attorneys to Each Capital Case

1. In each capital case the person or organization responsible for assigning counsel pursuant to §905 shall assign specific attorneys to each case and not an office, organization or group of attorneys. At least one appropriately certified attorney shall be assigned as lead counsel and at least one appropriately certified attorney shall be assigned as associate counsel. Additional counsel may be assigned when necessary or appropriate and assignments may be changed, subject to maintaining continuing compliance with these guidelines.

##### B. Assignment to be Consistent with Requirements of Guidelines

1. An attorney may only be assigned if he or she is currently certified in the appropriate role, is conflict free, meets the workload requirements of these guidelines and can be compensated in accordance with these guidelines. Assignments of attorneys must be made so as to meet the requirements of these guidelines, including §913.

##### C. Assignment of Counsel to Eligible Defendant Desiring Public Defender Services

1. Counsel shall be assigned to each defendant who is eligible to receive public defender services at the earliest possible opportunity following arrest and, wherever possible, prior to appearance under C. Cr. P. art. 230.1. Counsel shall be assigned no later than 48 hours after the time for appearance under C. Cr. P. art. 230.1.

2. Where an eligible capital defendant is arrested outside of Louisiana, the district public defender in the district in which the offense is alleged to have occurred will immediately assign counsel.

3. Counsel may be assigned prior to arrest where the capital defendant is an existing client of a public defender service or where the defendant seeks assistance in surrendering him or herself to police.

4. Counsel shall not be assigned to a defendant who indicates that he does not wish to receive public defender services. With the consent of the defendant, public defender services may be provided while a defendant considers whether he or she desires to receive public defender services.

##### D. Assignment of Counsel prior to Formal Finding of Eligibility

1. Where counsel is assigned prior to a formal finding of eligibility it is counsel's responsibility to immediately confer with the defendant to confirm his or her desire to receive public defender services unless this has already occurred.

#### E. Assignment of Counsel in Conflict Cases

1. Assignments in cases where there exists a conflict of interest will occur in accordance with the Capital Representation Plan and §905. Any person or organization unable to perform the assignment function due to a conflict of interest must immediately act to ensure that the appropriate non-conflicted authority may make the assignment.

#### F. Assignment of Counsel in Overflow Cases

1. Assignments in cases where the responsible person or organization is unable to assign counsel due to a lack of appropriately qualified and available counsel will occur in accordance with the Capital Representation Plan. Any person or organization unable to make an assignment due to a lack of available counsel must immediately act under the Capital Representation Plan to ensure that the appropriate authority may make the assignment.

#### G. Self-representation and Assignment of Standby Counsel

1. Where a capital defendant seeks to proceed without counsel, counsel is obliged to continue to represent the client in accordance with these guidelines and the performance standards until the motion for self-representation is granted. This obligation will include: investigating the competency of the client; the capacity of the client to knowingly, voluntarily and intelligently waive the right to the assistance of counsel; and the capacity of the client to engage in self-representation. Where appropriate, counsel should oppose the defendant's motion. Where appropriate, counsel should seek review of a trial court decision granting a capital defendant's motion for self-representation.

2. Where a capital defendant is proceeding pro se and the court permits or requires standby counsel, attorneys shall be assigned under these guidelines. Where attorneys are assigned to act as standby counsel a defense team shall be assembled consistent with §913 and be prepared to assume representation of the defendant should the court so order. Standby counsel has an ongoing obligation to monitor the capital defendant's competency, the quality of his waiver and his ability to represent himself and to bring such matters to the attention of the court where appropriate.

#### H. Unavailability of Counsel for Assignment

1. Where the persons or organizations identified in the capital representation plan responsible for assignment of counsel are unable to assign counsel, the district public defender and the state public defender shall be immediately notified. Where the district public defender and the state public defender are also unable to assign counsel, the state public defender shall immediately cause to be filed with the relevant court a notice that counsel cannot be assigned at this time.

2. In such cases, the state public defender shall assign capitolly certified counsel for the limited purpose of protecting the capital defendant's rights, including pursuing a halt of the prosecution.

3. Where counsel cannot be assigned to a case under this Section, the state public defender and district public

defender shall have an ongoing responsibility to identify counsel suitable for assignment to the case.

#### I. Transitional Provisions for Assignments Made Prior to Adoption of Guidelines

1. The district public defender or state public defender, as appropriate, shall review all assignments of attorneys in open capital cases made within his or her jurisdiction prior to the adoption of these guidelines by the board. Within six months of the adoption of these guidelines the district public defender or state public defender, as appropriate, shall take such action as is necessary to ensure that the assignment of attorneys in each such case has been brought into compliance with these guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:996 (May 2010).

### **§913. The Defense Team and Supporting Services**

#### A. Minimum Components of the Defense Team

1. For all capital defendants, a defense team that will provide high quality legal representation must be assembled.

a. The defense team should consist of no fewer than two attorneys certified in accordance with §915 of these guidelines (with at least one qualified as lead counsel), an investigator, and a mitigation specialist.

b. The defense team must include individuals possessing the training and ability to obtain, understand and analyze all documentary and anecdotal information relevant to the client's life history.

c. At least one member of the team must have specialized training in identifying, documenting and interpreting symptoms of mental and behavioral impairment, including cognitive deficits, mental illness, developmental disability, neurological deficits; long-term consequences of deprivation, neglect and maltreatment during developmental years; social, cultural, historical, political, religious, racial, environmental and ethnic influences on behavior; effects of substance abuse and the presence, severity and consequences of exposure to trauma.

d. The two attorneys, investigator and mitigation specialist described above are the minimum components of any defense team. The emphasis in assembling a defense team is to ensure that the team possesses the skills, experience and capacity to provide high quality representation in the particular case.

e. Additional team members will be appropriate in many cases in order to:

i. reflect the seriousness, complexity or amount of work in a particular case;

ii. meet legal or factual issues involving specialist knowledge or experience;

iii. ensure that the team has the necessary skills, experience and capacity available to provide high quality representation in the particular case;

iv. provide for the professional development of defense personnel through training and case experience; and

v. for any other reason arising in the circumstances of a particular case.

#### B. Expert, Investigative and Other Ancillary Professional Services

1. Counsel shall have access to the assistance of all expert, investigative, and other ancillary professional

services reasonably necessary or appropriate to provide high quality legal representation at every stage of the proceedings.

2. The state public defender shall provide funds for the assistance of experts, including mitigation specialists, and extraordinary investigative services. Such services will be provided by persons independent of the government and confidentiality of communications with the persons providing such services is to be maintained throughout the funding process. Funds for ordinary investigative services will be provided by the district public defender unless responsibility for the case under §905 is vested in the state public defender.

#### C. Defendants with Retained or Pro Bono Counsel

1. A capital defendant who is eligible for public defender services under §909 is entitled to public funds for the minimum components of a defense team and expert, investigative and other ancillary services notwithstanding that he or she has retained or pro bono counsel.

2. In such a case the district public defender, regional director or state public defender, as appropriate, shall be responsible for supplementing existing services available to the defendant to meet the requirements of this Section.

3. In such a case, the district public defender, regional director or state public defender, as appropriate, shall be responsible for ensuring that the capital defendant receives high quality legal representation in his or her capital case. In the absence of specific agreement with the district public defender, regional director or state public defender, counsel assigned to the case shall operate as lead counsel.

4. If a retained attorney becomes unable to continue representing a capital defendant because the defendant or any third party cannot fulfill the terms of the financial agreement between the attorney and the defendant or any third party, that attorney is not eligible to be appointed to represent the defendant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:997 (May 2010).

### §915. Qualifications of Defense Counsel

#### A. Certification Standards Intended to Ensure High Quality Legal Representation

1. The certification standards and mechanisms established by these guidelines should be construed and applied in such a way as to further the overriding goal of providing each client with high quality legal representation.

#### B. Goals of Certification Standards

1. In formulating certification standards, the Public Defender Board seeks to insure:

a. that every attorney representing a capital defendant has:

i. obtained a license or permission to practice in the state of Louisiana;

ii. the skills, experience and capacity available to provide high quality capital defense representation;

iii. demonstrated a commitment to providing zealous advocacy and high quality legal representation in the defense of capital cases; and

iv. satisfied the training requirements set forth in §923;

b. that the pool of defense attorneys as a whole is such that each capital defendant in Louisiana receives high quality legal representation. Accordingly, the certification standards are meant to insure that the pool includes sufficient numbers of attorneys who have demonstrated:

i. substantial knowledge and understanding of the relevant state, federal and international law, both procedural and substantive, governing capital cases;

ii. skill in the management and conduct of complex negotiations and litigation;

iii. skill in legal research, analysis, and the drafting of litigation documents;

iv. skill in oral advocacy;

v. skill in the use of expert witnesses and familiarity with common areas of forensic investigation, including fingerprints, ballistics, forensic pathology, and DNA evidence;

vi. skill in the investigation, preparation, and presentation of evidence bearing upon mental status, including mental retardation;

vii. skill in the investigation, preparation, and presentation of mitigating evidence;

viii. skill in the elements of trial advocacy, such as jury selection, cross-examination of witnesses, and opening and closing statements; and

ix. skill in maintaining a strong working relationship with a capital defendant.

#### C. Standard Process for Certification

1. Certification is available for the roles of Trial Lead Counsel, Trial Associate Counsel, Appellate Lead Counsel, Appellate Associate Counsel, Post-Conviction Lead Counsel, or Post-Conviction Associate Counsel.

2. Attorneys seeking certification must submit a detailed application to the state public defender with the overall purpose of establishing their experience and knowledge in each of the categories in §915.B.1.b, as well as the minimum requirements for the particular role for which they seek certification as outlined in §915.D, and have satisfied the training requirements outlined in §923.

3. The information in an application for certification shall include:

a. to the extent possible, a list of all capital cases in which the attorney has served as defense counsel, including the name of the defendant, judicial district court, trial judge, prosecuting attorneys, co-counsel, the result or verdict and any reported appellate decisions in the case;

b. any other experiences the attorney believes will establish his or her qualifications, including but not limited to:

i. non-capital trial or appellate experience;

ii. experience as a public defender or prosecutor, or as an attorney in a capital defense organization;

iii. observation of complete capital trials; and/or

iv. extensive research and/or training in the field of capital defense;

c. at least two samples of substantial written legal work product including analysis of complex legal issues, preferably filed in a capital case, prepared by the attorney at the trial, appellate or post-conviction level;

d. the names and phone numbers of two district court judges (or appellate judges in the case of appellate certification) or capital defense attorneys familiar with the attorney's work as an advocate;

e. written statement by the applicant describing the extent and source of relevant proficiencies in each of the categories in §915.B.1.b;

f. an authorization to permit the state public defender to obtain CLE records for the attorney both prior to and during any period of certification;

g. a signed undertaking that the attorney will comply with the continuing obligations of certified counsel detailed in §915.I;

h. a listing of the number of active trial, appellate or post-conviction cases the attorney has, and any non-active cases that may become active in the next year;

i. any other relevant background or specializations which might inform the state public defender of the attorney's qualifications for certification or the assignment of particular cases;

j. proof that the attorney is licensed to practice in Louisiana or has been granted permission to practice in a capital case or cases in Louisiana;

k. information relevant to assessing the applicant's professional, physical and mental fitness for certification, including:

i. any findings of professional misconduct in this or any other jurisdiction, including any findings of contempt of court;

ii. any matter affecting the applicant's physical health that would substantially impair the applicant's capacity to meet the requirements of certified capital counsel in these guidelines and associated performance standards; and/or

iii. any matter affecting the applicant's mental health that would substantially impair the applicant's capacity to meet the requirements of certified capital counsel in these guidelines and associated performance standards.

4. The state public defender may develop and publish an application form. Where an applicant is unable to supply one or more of the items required above, the application should provide an explanation for this and the state public defender may waive the requirement or require other material to be supplied in lieu of that listed in this Section.

#### D. Minimum Experience Requirements for Certification

1. The following minimum required experience levels apply for each of the roles for which certification is available:

a. Qualified Trial Lead Counsel shall:

i. have at least five years of criminal trial litigation experience;

ii. have prior experience as lead counsel in no fewer than nine jury trials tried to completion; of these, at least five must have involved felonies or two must have involved the charge of murder; and

iii. have prior experience as lead counsel or associate counsel in at least one case in which the death penalty was sought and was tried through the penalty phase or have prior experience as lead counsel or associate counsel in at least two cases in which the death penalty was sought and where, although resolved prior to trial or at the guilt

phase, a thorough investigation was performed for a potential penalty phase.

b. Qualified Trial Associate Counsel shall:

i. have at least three years of criminal trial experience; and

ii. have prior experience as lead counsel in no fewer than three felony jury trials which were tried to completion, including service as lead or associate counsel in at least one homicide trial.

c. Qualified Appellate Lead Counsel shall:

i. have at least five years of criminal appellate litigation experience;

ii. have prior experience within the last three years as lead counsel in the appeal of no fewer than three felony convictions in federal or state court; and

iii. have prior experience within the last three years as lead counsel or associate counsel in the appeal or post-conviction application, in federal or state court, of at least one case where a sentence of death was imposed; and

iv. be familiar with the practice and procedure of the Louisiana Supreme Court in the appeal of capital cases; the practice and procedure of the United States Supreme Court in the application for writs of certiorari in capital cases; and the law controlling the scope of and entitlement to state post conviction and federal habeas corpus review.

d. Qualified Appellate Associate Counsel shall:

i. have demonstrated adequate proficiency in appellate advocacy in the field of felony defense; and either have at least:

(a) three years of criminal trial or appellate litigation experience; or

(b) two years experience as a full time attorney at a capital defense organization in Louisiana.

e. Qualified Post-Conviction Lead Counsel shall:

i. have at least five years of criminal post-conviction litigation experience; and

ii. have demonstrated clear competence and diligence in representation provided as:

(a) counsel of record for defendant in at least five felony post-conviction relief/habeas corpus proceedings (including at least one murder conviction); and

(b) counsel of record for defendant as lead or associate counsel in two death penalty related post-conviction/habeas corpus proceedings in which petition has been filed; and

iii. have been lead counsel in a capital post-conviction proceeding which had an evidentiary hearing or been lead counsel in at least two felony post-conviction evidentiary hearings or trials; and

iv. be familiar with the substantive law and the practice and procedure of the courts of Louisiana in the review of capital post-conviction applications; and

v. be familiar with federal habeas corpus statutory law, practice and procedure, particularly including federal review of state convictions in capital cases.

f. Qualified Post-Conviction Associate Counsel shall:

i. have demonstrated adequate proficiency in post-conviction/habeas advocacy in the field of felony defense and either:

(a). have at least three years of criminal trial, appellate or post-conviction/habeas litigation experience; or

(b). have at least two years experience as a full time attorney at a capital defense organization in Louisiana.

g. Waiver of Experience Qualification Due to Equivalent Alternative Experience

i. Having appropriate regard to the goals of these certification standards, the state public defender may waive formal compliance with the minimum experience requirements contained in this Section where satisfied that the applicant has equivalent alternative experience. However, in all cases lead counsel must have been admitted to the bar for at least five years.

#### E. Minimum Training Requirements for Certification

1. Prior to certification, the applicant must have satisfactorily completed within the preceding two years a comprehensive training program as described in §923.B. This requirement is non-waivable, though counsel not meeting this requirement will be eligible for provisional certification.

#### F. Consideration of Certification Applications

1. Subject to §915.H, the decision to certify or not certify an applicant under §915 rests in the sole discretion of the state public defender and shall not be subject to political or judicial interference.

2. The state public defender shall promptly review each application, investigate the contents of the submission, make any further enquiries that will assist in deciding whether certification is appropriate, and determine whether the attorney should be certified as Trial Lead Counsel, Trial Associate Counsel, Appellate Lead Counsel, Appellate Associate Counsel, Post-Conviction Lead Counsel, Post-Conviction Associate Counsel or provisionally certified under §915.G.

3. The state public defender may request that the applicant submit any further information required to allow a full consideration of the application.

4. The state public defender shall not certify any applicant unless he or she:

a. is licensed or has been granted permission to practice in Louisiana;

b. meets the requirements of §915.D and E; and

c. has submitted an application complying with §915.C, including an undertaking to comply with the requirements of §915.I.

5. In determining whether certification is appropriate, the state public defender shall have regard to:

a. the goals of certification;

b. the experience of the applicant;

c. the prior training of the applicant;

d. the proficiency of the applicant in the provision of capital defense services; and

e. the extent to which the applicant has the commitment, skill and capacity to provide zealous advocacy and high quality legal representation in the defense of capital cases.

6. If the applicant is not certified, or not certified for the role requested, the state public defender shall inform him or her of the reasons for the denial of certification in writing. The applicant shall be given the opportunity to supplement the initial application or, where appropriate, to submit a further application upon meeting any deficiency.

#### G. Provisional Certification

1. An attorney whom the state public defender has found to be not appropriate or eligible for certification in a particular role may be granted provisional certification in that role subject to such conditions as may be set by the state public defender.

2. Conditions attached to provisional certification may include but are not limited to:

a. undertaking and satisfactorily completing further training as determined by the state public defender;

b. working with resource counsel assigned by the state public defender;

c. working only on a specific case or cases;

d. working only with a specific attorney or attorneys as determined by the state public defender;

e. limiting responsibility in work on a case to a particular area or areas as determined by the state public defender;

f. working only as a part of a defense team that includes a member or members with a particular skill, experience or expertise as determined by the state public defender;

g. achieving or maintaining a caseload or workload of a level and type determined by the state public defender.

3. A provisionally certified attorney shall be regarded as being certified for the purposes of §913 and Rule XXXI, La. S. Ct. Rules, but may not be assigned to any case without the prior approval of the state public defender and under circumstances that ensure that the conditions set for provisional certification are met and will continue to be met.

#### H. Appeal from Denial of Certification

1. After being notified of the final decision of the state public defender, an attorney who has been denied certification can make a written request within 21 calendar days of the notification to appeal the decision to the board or an appeals review committee designated by the board. The decision of the board or appeals review committee shall not be subject to judicial or political interference.

#### I. Obligations of Certified Counsel

1. It will be a continuing obligation of certified counsel to:

a. comply with these guidelines and associated performance standards;

b. comply with the Louisiana Rules of Professional Conduct;

c. maintain caseloads and workloads within the limits established by the guidelines established by the Louisiana Public Defender Board, except as specifically authorized by the state public defender;

d. cooperate with case monitoring and case reviews by the case supervisor, district public defender and state public defender;

e. attend and successfully complete continuing capital legal education as described in §923.C;

f. notify the state public defender of any change of address or contact information;

g. immediately notify the state public defender of any change in his or her licensure or permission to practice in the state of Louisiana;

h. immediately notify the state public defender of any change in the information contained in his or her

application for certification relating to professional, physical, mental fitness to be certified as capital counsel;

i. promptly respond to any request for information from the state public defender, regional director or district public defender, as appropriate, relevant to the attorney's performance as capitally certified counsel or satisfaction of the obligations of capitally certified counsel; and

j. notify every court in which he or she is counsel in a capital case of any reduction in the level or extent of his certification.

#### J. Maintaining Certification

1. Certified attorneys must apply to the state public defender for re-certification by January 31 of each calendar year following the year of initial certification under these guidelines.

2. When applying for re-certification, counsel must certify continued compliance with the obligations established under the guidelines, including the requirement for continuing capital legal education. The attorney must advise the state public defender of any previously undisclosed failure to comply with these guidelines.

3. The state public defender shall publish an application form for re-certification. The state public defender shall distribute re-certification application forms to all certified counsel each year.

4. Following submission of an application for certification, an attorney will remain certified until such time as the state public defender determines to re-certify or not re-certify the attorney.

5. The state public defender will promptly consider each application for re-certification and determine whether to re-certify the attorney. Consideration of re-certification and any appeal from the decision will be handled in a manner consistent with §915.F, G and H. An attorney will remain provisionally certified during any appeal from a refusal to re-certify the attorney.

6. Where an attorney fails to timely apply for re-certification, he or she shall be reduced to provisional certification status. The state public defender shall investigate the failure to apply for re-certification and either de-certify the attorney or consider an out of time application for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:998 (May 2010).

### §917. Certification Transitional Provision

A. Re-certification for Attorneys on the Roster Prior to the Promulgation of these Guidelines

1. All attorneys on the Public Defender Board's Capital Certification Roster at the time of the adoption of these guidelines shall be deemed to be certified under these guidelines on the date of adoption subject to the following.

a. All attorneys deemed to be certified under this Section must apply for certification under these guidelines within six months of the guidelines being adopted by the board or be de-certified. An attorney de-certified in this way may subsequently apply for certification.

b. Attorneys deemed to be certified under these guidelines must satisfy the comprehensive training program requirement contained in §923.B within two years of the adoption of these guidelines. Where an attorney fails to satisfy this provision he or she shall be immediately reduced

to provisional certification status and the state public defender shall determine whether the attorney should be de-certified.

c. The state public defender will inform any court in which the attorney is acting for a capital defendant of the de-certification of the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:1001 (May 2010).

### §919. Workload

A. Workloads Should be Low Enough to Allow High Quality Legal Representation

1. Workloads of defense team members shall be maintained at a level that enables counsel to provide each client with high quality legal representation in accordance with these guidelines and associated performance standards, including the ability of counsel to devote full time effort to the case as circumstances will require.

B. Caseloads and Workloads

1. Attorneys shall maintain workloads in compliance with any policy or rule adopted by the board under R.S. 15:148(B)(1)(a).

2. Pending the adoption by the board of a policy or rule under R.S. 15:148(B)(1)(a), attorneys shall maintain caseloads in compliance with Chapter 12, Louisiana Standards on Indigent Defense.

C. Responsibility for Maintaining Appropriate Workload Levels

1. The state public defender, regional director and district public defender shall be responsible for ensuring that the attorneys in each case for which they have responsibility under §905 are in compliance with this Section and shall assist the attorneys to achieve and maintain appropriate workloads.

2. Each supervisor of a capital attorney has a responsibility to ensure that the attorneys he or she supervises maintain compliance with this Section and assist the attorneys to achieve and maintain appropriate workloads.

3. Each attorney has an individual responsibility to ensure that he or she maintains compliance with this Section.

D. Obligation to Refuse New Cases in Excess of Workload Limits

1. An attorney should not be assigned new case assignments that will result in his or her workload exceeding that allowed by §919.A after accepting a capital case.

2. Where an attorney believes that accepting a new case will result in a workload in violation of §919.A, the attorney must bring this to the attention of the case supervisor for reasonable resolution of the question of professional duty created. Where the question of whether the workload is excessive is reasonably arguable, the responsibility to ensure compliance with these guidelines rests with the case supervisor. Where the workload is excessive, this may include but is not limited to ensuring that no new assignment is made; reallocating other responsibilities; and providing additional personnel on new or existing cases.

3. Where the attorney believes that the resolution of the question has been inadequate he or she must raise the question progressively with the district public defender, regional director and state public defender, as appropriate, for reasonable resolution.

4. Where the question of whether the workload is excessive is not reasonably arguable or where the attorney has exhausted all available avenues for a reasonable resolution of the question and no reasonable resolution has been provided, the attorney should decline to accept any new cases.

5. An attorney should decline to accept new cases, rather than withdraw from existing cases, if the acceptance of a new case will result in his or her workload exceeding that allowed by §919.A.

E. **Obligation to Respond to Excessive Workloads**

1. Where an attorney believes that his or her workload is in violation of §919.A, the attorney must bring this to the attention of the case supervisor for reasonable resolution of the question of professional duty created. Where the question of whether the workload is excessive is reasonably arguable, the responsibility to ensure compliance with these guidelines rests with the case supervisor.

2. Where a case supervisor becomes aware that an attorney's workload may exceed that allowed by §919.A, he or she shall immediately investigate the attorney's workload and take appropriate steps to bring the attorney's workload into compliance with this Section. Such action may include:

- a. assigning additional members to the defense team on particular cases to reduce the workload demands on the attorney;
- b. assisting the attorney in moving to withdraw from a particular case or cases;
- c. counseling the attorney to withdraw from a case or cases that are not the subject of supervision;
- d. assisting the attorney in managing non-representational responsibilities by reassigning those responsibilities or providing additional support for the attorney in meeting those responsibilities.

3. Where the attorney believes that the resolution of the question of excessive workload has been inadequate, he or she must raise the question progressively with the district public defender, regional director and state public defender, as appropriate, for reasonable resolution.

4. Where the question of whether the workload is excessive is not reasonably arguable and where the attorney has exhausted all available avenues for a reasonable resolution of the question and no reasonable resolution has been provided, the attorney should move to withdraw from the case or cases in which capital defense services in compliance with these guidelines and associated performance standards cannot be provided. The state public defender must be provided reasonable notice prior to the filing of any motion to withdraw under this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Public Defender Board, LR 36:1001 (May 2010).

**§921. Monitoring of Certified Counsel; Removal**

A. **Monitoring Performance of Defense Counsel**

1. The state public defender is responsible for monitoring the performance of all capital defense counsel to ensure that each client is receiving high quality legal representation.

2. The district public defender is responsible for monitoring the performance of all capital defense counsel in his or her jurisdiction, when not precluded from doing so by a conflict of interest.

3. Where there is evidence that an attorney is not providing high quality legal representation consistent with these guidelines and associated performance standards, the state public defender and district public defender, as appropriate, should take necessary action to protect the interests of the attorney's current and potential clients.

B. **Complaints Procedure**

1. The state public defender shall establish and publicize a complaints procedure.

C. **Capital Case Review**

1. Whenever a capital case has been closed at trial, appellate, state post-conviction, federal post-conviction or clemency level the state public defender shall receive a briefing from counsel regarding the course of the representation. The state public defender may publish a form for the provision of case briefings.

2. At the discretion of the state public defender and in every case in which a death sentence is imposed or affirmed, post-conviction relief is denied or a defendant is executed, a case review committee shall be convened by the state public defender to review the course of the representation. The purpose of the review is to gather information to assist in the ongoing provision of high quality representation in capital cases.

D. **Periodic Review of Certification and Service Provision**

1. The state public defender shall review the roster of attorneys certified on an annual basis to ensure that attorneys listed remain capable of providing high quality legal representation.

2. The state public defender shall review the service delivery of each district public defender and defender organization each year to ensure that each remains capable of providing high quality legal representation.

E. **Decertification**

1. The state public defender may decertify, reduce the role for which counsel is certified or reduce to provisional certification any attorney who has: failed, without good cause, to meet the requirements of these guidelines and associated performance standards; has failed, without good cause, to satisfy the obligations of certified counsel under §915.I; has become unsuitable for capital certification under §915; has failed to continue to demonstrate that he or she has the required legal knowledge and skill necessary for capital defense representation; or has failed to continue to demonstrate that he or she is willing to apply that knowledge and skill with appropriate thoroughness and preparation.

2. The state public defender may also remove an attorney from the roster if, as part of a periodic review of the roster, the state public defender determines that a smaller roster of attorneys will better serve the goals of ensuring the best possible representation of indigent capital defendants and of delivering quality services in the most efficient and cost-effective manner.

3. Where counsel is decertified the state public defender shall ensure that each court in which the attorney represents a capital defendant is advised of this fact. The responsible agency under §905 will assign new counsel to represent the defendant in order to ensure that the defendant receives representation in compliance with these guidelines and the associated performance standards. Counsel who are decertified shall not be paid for work performed after

decertification except for such work as is necessary to provide for an effective transition of case responsibility to successor counsel.

4. Where there is substantial evidence that an attorney has failed to provide high quality legal representation, the attorney shall be reduced by the state public defender to provisional certification and the state public defender shall promptly investigate the circumstances of the representation.

5. Following the investigation, the state public defender may restore the attorney's original level of certification, reduce the role for which the attorney is certified, confirm the provisional certification or decertify the attorney.

6. Where there is substantial evidence that a systemic defect in a defender organization has caused the office to fail to provide high quality legal representation, the state public defender and district public defender shall ensure that the organization does not receive additional assignments of cases. The state public defender shall promptly investigate the existence of a systemic defect.

7. Following the investigation the state public defender may direct that the defender organization continue to receive case assignments, require that remedial action be taken or take action to ensure that the defender organization does not receive any further assignments and that existing clients receive representation consistent with these guidelines and associated performance standards.

8. Any attorney or defender organization that may be the subject of an adverse decision under §921.E shall be provided written notice of any action being contemplated and an opportunity to respond in writing before any final action is taken.

9. Any attorney or defender organization adversely affected by a decision under §921.E may appeal that decision in the manner described in §915.H.

#### F. Protection of Zealous Advocacy

1. The state public defender must ensure that this Section is implemented consistently with §903, so that an attorney's zealous representation of a client cannot be cause for the imposition or threatened imposition of sanctions pursuant to this Section.

#### G. Inherent Regulatory Authority of Louisiana Supreme Court

1. Nothing in this Section is intended to derogate from the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:1002 (May 2010).

### §923. Training

#### A. Funding of Capital Defense Trainings

1. Funds should be made available by the Public Defender Board for the effective training, professional development, and continuing education of capital defense attorneys, investigators and mitigation specialists.

#### B. Comprehensive Training Program

1. Attorneys seeking to qualify for capital defense certification shall satisfactorily complete a comprehensive training program, approved by the state public defender, in the defense of capital cases. Such a program should include,

but not be limited to, presentations and training in the following areas:

- a. relevant state, federal, and international law;
- b. pleading and motion practice;
- c. pretrial investigation, preparation, and theory development regarding guilt/innocence and penalty;
- d. jury selection;
- e. trial preparation and presentation, including the use of experts;
- f. the investigation, preparation, and presentation of mitigating evidence;
- g. investigation, preparation, and presentation of evidence bearing upon mental status, including mental retardation;
- h. ethical considerations particular to capital defense representation;
- i. preservation of the record and of issues for post-conviction review;
- j. counsel's relationship with the client and his family;
- k. post-conviction litigation in state and federal courts;
  1. the presentation and rebuttal of scientific evidence, and developments in mental health fields and other relevant areas of forensic and biological science.
  2. The state public defender shall develop and provide a comprehensive training program to assist attorneys in meeting the mandatory training requirements established by §923.B. The state public defender shall offer the comprehensive training program on at least an annual basis.

#### C. Continuing Capital Legal Education

1. Attorneys seeking to remain on the certification roster must continue to attend and successfully complete specialized training program approved by the state public defender that focuses on the defense of death penalty cases. Attorneys must complete at least eighteen hours of training at an approved course or courses every two years.

#### D. Continuing Professional Education—Non-attorneys

1. All non-attorneys wishing to be eligible to participate on defense teams should receive continuing professional education appropriate to their areas of expertise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:1003 (May 2010).

### §925. Funding and Compensation

#### A. Responsibility for Funding Capital Defense

1. Except as otherwise provided in these guidelines, the district public defender shall be responsible for funding capital defense services in each case for which he or she has responsibility under §905. The state public defender shall be responsible for funding capital defense services as provided for in these guidelines and in each case for which he or she has responsibility under §905.

2. Where a district public defender or the state public defender has insufficient funds to provide for capital defense services for which it has responsibility, the Board shall have responsibility for making available sufficient funds to permit the funding of capital defense services consistent with these guidelines and associated performance standards.

3. Where the board is unable to provide sufficient funds to permit representation consistent with these



guidelines and associated performance standards it shall be the obligation of defense counsel in each case so affected to take all necessary steps to preserve and protect the defendant's rights until adequate funding is provided, including, in a trial level case, move for a halt of prosecution.

#### B. Allocation of Funds

1. Within the constraints of available funds, the board, the state public defender and each district public defender responsible for capital representation shall endeavor to make adequate budgetary allowance for the funding of capital defense services consistent with these guidelines and associated performance standards and in a cost-effective and fiscally responsible manner.

2. The board, the state public defender and each district public defender responsible for capital representation must balance the responsibility to fund capital representation with the obligation to fund representation in other cases and within the constraints provided by available funds, must endeavor to provide adequate funds for all required indigent defense services and make budget allocations accordingly.

3. Similarly, the board, the state public defender and each district public defender responsible for capital representation must balance the responsibility to fund capital representation across all of the districts in the state and at each stage of capital representation and must endeavor to provide adequate funds for all required capital defense services and make budget allocations accordingly.

4. Where the demand for capital defense services exceeds the available funds, the board, the state public defender and each district public defender shall ensure that funds are allocated consistent with the following principles:

a. funds allocated for and necessary for services other than capital defense services shall not be re-allocated to capital defense services, provided that the budget has reasonably sought to balance funding for the capital and non-capital funding responsibilities of the board, state public defender and district public defender;

b. funds allocated for different districts, regions or stages of representation in capital cases shall not be re-allocated to another district, region or stage of representation provided that the budget has reasonably sought to balance funding for all required capital defense services;

c. funds should be made available to capital cases only to the extent that each case can be funded at a level that can provide for representation consistent with these guidelines and associated performance standards. Capital cases should not be partially funded at a level below that necessary to achieve compliance with these guidelines and associated performance standards;

d. notwithstanding the above, where a capital case cannot be adequately funded, funds may be used for the limited purposes of:

i. preserving the rights of the defendant, including the right to a halt of prosecution; and

ii. minimizing any irremediable prejudice arising from the lack of adequate funds, for example, by preserving available evidence;

e. within each stage of representation (trial, appeal, post-conviction, clemency), funds are to be allocated and expended on cases in the order in which the obligation to

provide representation began, or the order in which the need for particular funds has been presented; and

f. decisions regarding the allocation of funds are to be made free from political or judicial interference.

#### C. Compensation of Capital Defense Counsel

1. Counsel in death penalty cases should be fully compensated at a rate that is commensurate with the provision of high quality legal representation and reflects the extraordinary responsibilities inherent in death penalty representation. Salary and other compensation should be comparable to other positions of similar stature throughout the state.

2. Flat fees, caps on compensation, and lump-sum contracts with attorneys are improper in death penalty cases.

3. No distinction between rates for services performed in or out of court should be maintained.

4. Periodic billing and payment should be available to capital defense counsel.

#### D. Compensation of Non-attorney Team Members

1. Non-attorney members of the defense team should be fully compensated at a rate that is commensurate with the provision of high quality legal representation and reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases. Salary and other compensation should be comparable to other positions of similar stature throughout the state.

2. No distinction between rates for services performed in or out of court should be maintained.

3. Periodic billing and payment should be available to non-attorney team members and experts.

#### E. Roster of Presumptively Reasonable Compensation

1. The state defender shall draft and publish a roster of presumptively reasonable rates of compensation for defense counsel, investigators, mitigation specialists and experts across the state, making provision for different rates for different regions of the state where necessary.

#### F. Funding in Unusually Protracted or Extraordinary Cases

1. Additional compensation should be available in unusually protracted or extraordinary cases.

#### G. Reasonable Incidental Expenses

1. Counsel and members of the defense team should be fully reimbursed for reasonable incidental expenses.

#### H. Documentation of Resource and Funding Allocation

1. It shall be the responsibility of counsel to request all resources and funds necessary to provide representation consistent with these guidelines and the performance standards. Counsel must ensure that all requests for and decisions regarding the allocation of resources and funds are clearly documented in the client file.

2. The board, the state public defender and each district public defender shall also ensure that all requests for and decisions regarding the allocation of resources and funds are clearly documented and preserved.

3. The requirement to clearly document decisions regarding resource and funding allocations operates even where counsel is also the person responsible for making the decision, for example, where the district public defender is lead counsel. Where counsel's obligation to the client creates a conflict with the obligation to make a decision regarding resource and funding allocations, the decision may be referred to the state public defender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:1003 (May 2010).

**§927. Establishment of Performance Standards**

A. Establishing Performance Standards

1. The Public Defender Board shall establish performance standards for all counsel in death penalty cases.

2. Pending the adoption of these performance standards, counsel in death penalty cases should meet the standards adopted by the American Bar Association.

B. Standards Shall Operate as a Benchmark for Performance and Qualifications

1. The standards of performance should be formulated and interpreted so as to insure that all counsel provide high quality legal representation in capital cases in accordance with these guidelines. The performance standards shall serve as a benchmark when assessing the performance of counsel.

C. Interim Performance Standards

1. Pending the formal adoption of capital performance standards by the board the following shall, with any necessary modification to reflect Louisiana nomenclature and prevailing legal obligations, be deemed to operate as relevant performance standards under these guidelines:

a. Guidelines 10.2-10.15.2 of the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*; and

b. State of Louisiana Performance Standards for Criminal Defense Representation in Indigent Criminal Cases in the Trial Court (adopted June 20, 2006).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:1005 (May 2010).

Jean M. Faria  
State Public Defender

1005#036

**RULE**

**Department of Health and Hospitals  
Board of Examiners of Psychologists**

Training and Credentials, Certificate of Prescriptive Authority, Supervised Practice, Continuing Education, Licenses, Temporary Licensure, Supervision of Unlicensed Assistants, Disciplinary Action  
(LAC 46:LXIII. Chapters 3, 4, 7, 8, 9, 10, 11, and 15)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.Chapters 3, 7, 8, 9, 10, 11 and 15, and repeal LAC 46:LXIII.Chapter 4.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 3. Training and Credentials**

**§301. School**

A. ...

B. is an institution accredited by a regional body that is recognized by the U.S. Department of Education;

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1005 (May 2010).

**§303. Doctoral Programs in Psychology**

A. - C.1. ...

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists in an applied area of psychology recognized by the board.

3. - 7. ...

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology, in an applied area of specialization recognized by the board.

9. The program shall be an internal degree program (as opposed to an external degree program unless it is either designated by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register or it is accredited by the American Psychological Association.)

C.10. - D.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), LR 27:1895 (November 2001), LR 36:1005 (May 2010).

**§305. Specialty Areas**

A. In applied healthcare areas such as counseling, clinical, clinical neuropsychology, and school psychology, preparation shall include early and continuing involvement of students in applied healthcare settings. Such experiences shall occur at two levels: practicum and internship.

1. The practicum level is an earlier, prerequisite phase of involvement, usually for academic credit, often on campus, with typical time commitment of 8 to 16 hours per week. Practicum settings should provide supervised training in interviewing, appraisal, modes of intervention and research skills or other skills appropriate to the student's level of experience and area of specialization. A minimum of 300 hours of practicum experience should precede the internship. This should include at least 100 hours of direct client contact and at least 50 hours of scheduled individual supervision.

2. The following will be used to identify organized psychology internship training programs.

a. An organized training program, in contrast to supervised experience or on-the-job training, is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is assuring breadth and quality of training.

b. The internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the State/Provincial Board of Examiners in Psychology.

c. The internship agency had two or more psychologists on the staff as supervisors, at least one of whom was actively licensed as a psychologist by the State/Provincial Board of Examiners in Psychology.

d. Internship supervision was provided by a staff member of the internship agency or by an affiliate of that agency who carried clinical responsibility for the cases being supervised. At least half of the internship supervision was provided by one or more psychologists.

e. The internship provided training in a range of assessment and treatment activities conducted directly with clients seeking psychological services.

f. At least 25 percent of trainee's time was indirect client contact (minimum 375 hours).

g. The internship included a minimum of two hours per week (regardless of whether the internship was completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also have been at least two additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person including discussion; group supervision, additional individual supervision.

h. Training was post-clerkship, post-practicum and post-externship level.

i. The internship agency had a minimum of two interns at the internship level of training during the applicant's training period.

j. Trainee had title such as "intern," "resident," "fellow," or other designation of trainee status.

k. The internship agency had a written statement or brochure which described the goals and content of the internship, stated clear expectations for quantity and quality of trainee's work and was made available to prospective interns.

l. The internship experience (minimum 1,500 hours) was completed within 24 months.

B. In applied non-healthcare areas such as educational, developmental, experimental, social, or industrial-organization, psychology, internship training may take the form of post-doctoral supervised experience as defined in the regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), LR 36:1005 (May 2010).

### **§307. Clinical Neuropsychology**

A. - C.1.c. ...

d. specialty internship in clinical neuropsychology, followed by the completion of a formal post-doctoral fellowship (one year minimum) in clinical neuropsychology, or the equivalent of one full year (2,000 hours) of post-

doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2, 3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions. The 2,000 total hours must be obtained in no more than two consecutive years;

C.1.e. - C.2.c. ...

d. In addition to whatever remedial didactic training is necessary, the candidate for respecialization in clinical neuropsychology, will complete either a formal, one year post-doctoral fellowship training program, or the equivalent of one full year (2,000 hours) of supervised experience in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1.d.

C.2.e. - C.3.a. ...

i. diplomat status (ABPP/ABCN or ABN) in neuropsychology;

C.3.a.ii. - C.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), amended LR 36:1006 (May 2010).

## **Chapter 4. Certificate of Prescriptive Authority**

### **§401. Preface**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), repealed LR 36:1006 (May 2010).

### **§403. Application for Certificate of Prescriptive Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), amended LR 32:1228 (July 2006), LR 33:458 (March 2007), LR 34:1406 (July 2008), repealed LR 36:1006 (May 2010).

### **§405. Limits of Practice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:71 (January 2005), repealed LR 36:1006 (May 2010).

### **§407. Documentation of Physician Consultation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:71 (January 2005), repealed LR 36:1006 (May 2010).

### **§409. Prescribing Practices of a Medical Psychologist**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:72 (January 2005), repealed LR 36:1006 (May 2010).

#### **§411. Continuing Professional Education**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:72 (January 2005), repealed LR 36:0000 (May 2010).

#### **§413. Annual Renewal of the Certificate of Prescriptive Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:73 (January 2005), repealed LR 36:1007 (May 2010).

#### **§415. Complaint Procedure**

Repealed effective January 1, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:73 (January 2005), repealed LR 36:1007 (May 2010).

### **Chapter 7. Supervised Practice Leading toward Licensure**

#### **§703. Duration and Setting of Supervised Practice**

A. Two years of full-time (4,000 hours) supervised and documented experience shall be required for licensure. Up to one year full-time (2,000 hours) of an acceptable internship may be applied to this requirement, however all remaining supervision must be post-doctoral.

A.1. - 3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2075 (October 2003), LR 36:1007 (May 2010).

### **Chapter 8. Continuing Education**

#### **§801. Preface**

A. Pursuant to R.S. 37:2357(B) each licensed psychologist is required to complete 30 hours of credit of acceptable continuing education from an acceptable sponsor as defined in this Chapter within biennial reporting periods. The continuing education requirements of psychologists are designed to promote their continued familiarization with new developments within the profession. Continuing education offerings shall be at the graduate or post-graduate level in terms of content, quality, organization, and presentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:1007 (May 2010).

#### **§805. Acceptable Sponsorship, Offerings and Activities**

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010).

### **Chapter 9. Licensees**

#### **§901. Reinstatement of Lapsed Licenses**

A. ...

B. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee. Applicants who appear for reinstatement after 1 year of the lapsing of his/her license are required to submit to a criminal background check.

C. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357.A and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003), LR 33:648 (April 2007), LR 36:1007 (May 2010).

### **Chapter 10. Temporary Licensure**

#### **§1001. Registration of Out-of-State Psychologist**

A. Any nonresident duly licensed or certified for independent practice as a doctoral level psychologist in the state of his/her residence and which state will permit residents of this state a like and similar privilege as provided herein may, if associated with a psychologist who is a resident of the state of Louisiana and licensed under Title 37, Chapter 28 of the Louisiana Revised Statutes, practice as a psychologist for a period not to exceed 30 days in any calendar year to the same extent and manner as if licensed in this state.

B. A psychologist not licensed in Louisiana, whose license is current, unrestricted, and at the doctoral level in the jurisdiction of his/her residence, must properly register with the board prior to providing psychological services in Louisiana by providing to the Board:

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2365.D.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), amended LR 36:1007 (May 2010).

#### **§1002. Emergency Temporary Registration for Psychologists**

A. ...

B. Prior to providing professional services in Louisiana a psychologist licensed at the doctoral level in another

jurisdiction of the United States, shall apply for an Emergency Temporary Registration (ETR). The application for ETR shall be made available via the board website or mailed upon request.

C. - D. ...

E. A psychologist not licensed in Louisiana, whose license is current, unrestricted, and at the doctoral level in the jurisdiction of his/her residence in the United States, and properly registers with the board may gratuitously provide psychological services if:

1. ...

2. the psychologist complies with the Louisiana Licensing Law for Psychologists R.S. Title 37, Chapter 28, the *Louisiana Administrative Code*, Title 46, Part LXIII and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

3. ...

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), amended LR 36:1007 (May 2010).

## **Chapter 11. Supervision of Unlicensed Assistants in Providing Psychological Services**

### **§1103. Responsibilities of Supervisors**

A. - C. ...

D. An ongoing record of supervision shall be maintained which details the types of activities in which the assistant is engaged and the level of competence in each. This record shall be kept in such form as may be prescribed by the board.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1008 (May 2010).

## **Chapter 15. Rules for Disciplinary Action**

### **Subchapter A. Applicability; Processing Complaints**

#### **§1501. Applicability**

A. These rules shall be applicable to any action of the Louisiana State Board of Examiners of Psychologists (board) to withhold, deny, revoke or suspend any psychologist's license on any of the grounds set forth in R.S. 37:2359 or under any other applicable law, regulation or rule, when such action arises from a complaint as defined in this section.

B. These rules shall not be applicable to the licensure of psychologists pursuant to R.S. 37:2356.

C. Unless otherwise provided by law, the board may delegate its authority and responsibility under these rules to a committee of one or more board members, to a hearing officer, or to other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:461 (July 1983), amended LR 12:833 (December 1986), amended by the Department of Health and

Hospitals, Board of Examiners of Psychologists, LR 36:1008 (May 2010).

### **§1503. Complaints**

A. A complaint is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a psychologist, or any other individual, under the provisions of Title 37, Chapter 28 of the LA Revised Statutes, or other applicable law, regulation or rule.

B. Upon receipt of a complaint, the board may initiate and take such action as it deems appropriate.

C. Complaints may be initiated by the board, by any licensed psychologist or by any other person.

D. Upon receipt of complaints from other persons, the board will forward its Request for Investigation form to said person(s). Ordinarily, the board will not take additional action until the form is satisfactorily completed.

1. Except under unusual circumstances, the board will take no action on anonymous complaints.

2. If the information furnished in the Request for Investigation form is not sufficient, the board may request additional information before further considering the complaint.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:461 (July 1983), amended LR 12:833 (December 1986), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1008 (May 2010).

Jaime T. Monic  
Executive Director

1005#030

## **RULE**

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

Adult Residential Care Providers  
Minimum Licensing Standards  
Dementia Training Requirements (LAC 48:I.6867)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.6867 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2200.1-2200.5. 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 1. General Administration**

#### **Subpart 3. Licensing and Certification**

### **Chapter 68. Adult Residential Care Providers Licensing Standards**

#### **Subchapter F. Provider Responsibilities**

#### **§6867. Staff Training**

A. - I.2.a.v. ...

NOTE: For the purposes of this Section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

I.2.b. - I.3.b. ...

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Any dementia-specific training received in a nursing or nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services may be used to fulfill the training hours required pursuant to this Section.

6. Adult residential care providers may offer a complete training curriculum themselves or they may contract with another organization, entity, or individual to provide the training.

7. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. the qualifications of the person(s) or entity that developed the training; and
- c. information on how the training will be delivered (i.e., web-based, classroom, etc.).
- d. - e. Repealed.

8. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.

- a. A significant change occurs when there is:
  - i. any change of 50 percent or more to the training content;
  - ii. a change to the content regarding three or more required topic areas; or
  - iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).
- b. Continuing education undertaken by the provider does not require the department's approval.

9. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual must reapply to the department for approval to resume the program.

10. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.

11. Disqualification of Training Programs and Sanctions

- a. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to the:
  - i. qualifications of the person(s) or entity that developed the training;
  - ii. minimum qualifications of the person(s) or entity delivering the training; or
  - iii. training curriculum requirements.

12. Compliance with Training Requirements

- a. The review of compliance with training requirements will include, at a minimum, a review of:
  - i. the documented use of an approved training curriculum; and

ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

13. Training Exclusions and Timelines

a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.

b. ARC providers must comply with these dementia training requirements by January 1, 2011.

i. Existing staff must be trained in accordance with these provisions by January 1, 2011.

ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2166.1-2166.8 and R.S. 40:2200.1-2200.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2599 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35: 1541 (August 2009), amended LR 36:1008 (May 2010).

Alan Levine  
Secretary

1005#099

## RULE

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

#### Facility Need Review Relocation of Nursing Facility Beds (LAC 48:I.12529)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.12529 in the Medical Assistance Program as authorized by R.S. 40:2116 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 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 5. Health Planning

#### Chapter 125. Facility Need Review

#### Subchapter D. Relocation of Nursing Facility Beds

#### §12529. General Provisions

A. ...

B. Approved beds may be relocated in the same service area only under the following conditions.

1. Subject to the exceptions provided in Paragraphs 2 and 6, all of a nursing facility's approved beds must be relocated to a single new location.

1.a. - 5. ...

6. The department may approve a one-time partial relocation/transfer of a nursing facility's approved beds (Medicaid bed approvals) to another operational nursing facility, provided that the following provisions are met.

a. The transferring nursing facility may relocate/transfer approved beds to another nursing facility pursuant to this subparagraph only once.

b. The transferring nursing facility may not relocate/transfer less than 10 approved beds to another nursing facility.

c. A transferring nursing facility may not relocate/transfer more than 25 percent of its approved beds to another nursing facility.

i. If the transferring nursing facility relocates/transfers more than 25 percent of its approved beds to another nursing facility, the approval of any beds not relocated to the receiving nursing facility shall be immediately revoked.

d. The approved beds relocated/transferred become approved beds of the receiving nursing facility, and the transferring nursing facility relinquishes all rights in those approved beds, but may retain licensure.

e. The relocation of approved beds is subject to the receiving facility having licensed-only capacity in order to accommodate the relocation/transfer. Under no circumstances shall a receiving nursing facility license additional beds in order to accommodate the relocated, approved beds.

f. All relocated, approved beds are subject to state and federal bed change guidelines and procedures.

g. The provisions of this rule pertaining to the splitting of facility need review approvals shall sunset in 24 months from the date of the promulgation of the final Rule and shall have no effect henceforth.

AUTHORITY NOTE: Promulgated in accordance with 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 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010).

Alan Levine  
Secretary

1005#100

## RULE

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

Nursing Facilities Admissions  
(LAC 50:II.501-511, 10146 and 10157)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has adopted LAC 50:II.501-511 and repealed LAC 50:II.10146 and 10157 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 Administrative Procedure Act, R.S. 49:950 et seq.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Nursing Facilities

##### Subpart 1. General Provisions

#### Chapter 5. Admissions

##### §501. Preadmission Screening

A. Preadmission screening shall be performed for all individuals seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility services or the individual's known diagnoses. The purpose of the preadmission screening and resident review (PASRR) process is to identify applicants or residents who have a diagnosis of serious mental illness or mental retardation and to determine whether these individuals require nursing facility services and/or specialized services for their mental condition.

1. An individual is considered to have a serious mental illness (MI) if the individual meets the requirements on diagnosis, level of impairment and duration of illness as described in federal regulations.

a. Diagnosis. The individual has a diagnosis of major mental disorder as categorized by the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM IV) or its successor.

i. A mental disorder may include schizophrenia, mood, paranoid, panic, or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability.

ii. A primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia would not be included as a mental disorder unless the primary diagnosis is a major mental disorder as previously defined.

b. Level of Impairment. Within the past three to six months, the mental disorder has resulted in functional limitations in major life activities that would be appropriate for the individual's developmental stage.

c. Duration of Illness. The individual's treatment history indicates that he/she:

i. received psychiatric services more intensive than outpatient treatment more than once in the past two years; or

ii. as a result of the disorder, experienced an episode of significant disruption to the normal living situation within the last two years that either required supportive services to maintain functioning at home (or in a residential treatment environment) or resulted in intervention by housing or law enforcement officials.

2. An individual is considered to have mental retardation (hereafter referred to as intellectual disability) if the individual meets the criteria as described in the *American Association on Intellectual and Developmental Disabilities' Manual on Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition, or its successor.

a. Intellectual disability (ID) is a disability that originates before the age of 18 and is characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive behavior, which covers a range of everyday social and practical skills.

b. These provisions also apply to persons with related conditions as described in federal regulations.

B. A Medicaid-certified nursing facility shall not admit a person with a diagnosis of a serious mental illness or intellectual disability without a preadmission screening.

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 36:1010 (May 2010).

### §503. Medical Certification

A. Evaluative data for medical certification (level of care determination) must be submitted to the Office of Aging and Adult Services (OAAS) or its designee for all admissions to Medicaid-certified nursing facilities, regardless of payer source.

1. The following documents are required for all nursing facility admissions:

a. a Preadmission Screening and Resident Review (Level I PASRR) form completed by a physician licensed in Louisiana. The Level I PASRR form addresses the specific identifiers of MI or ID that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission; and

b. a Level of Care Eligibility Tool (LOCET) assessment performed by an appropriate professional.

NOTE: These documents must not be dated more than 30 days prior to the date of admission. The Level I PASRR form must be signed and dated on the date that it is completed by the physician.

2. If the individual is seeking nursing facility admission under a specialized level of care, a Notification of Admission, Status Change, or Discharge for Facility Care form (BHSF Form 148) indicating which specialized level of care is being sought must also be submitted to OAAS.

3. OAAS or its designee may require the submittal of additional documentation for an admission.

B. If the information on the Level I PASRR does not indicate that the individual may have a diagnosis of MI and/or ID and he/she meets nursing facility level of care, the OAAS may approve the individual for admission to the nursing facility.

1. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148 to the parish Medicaid Office and OAAS indicating the anticipated payment source for the nursing facility services.

C. If the information on the Level I PASRR indicates that the individual may have a diagnosis of MI and/or ID, the individual shall be referred to the Office of Mental Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability Level II authorities) for a Level II screening to determine level of care and the need for specialized services.

1. Medical certification is not guaranteed for an individual who has been referred for a Level II screening.

2. A Medicaid-certified nursing facility shall not admit an individual identified for a Level II screening until

the screening has been completed and a decision is made by the Level II authority.

D. Vendor Payment. Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only start once the individual is actually admitted to the facility.

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 36:1011 (May 2010).

### §505. Categorical Advance Group Determinations

A. In order to assure timely and appropriate care for applicants, the Level II authority may make an advance group determination by category that takes into account that certain diagnoses, levels of severity of illness or need for a particular service clearly indicates the need for nursing facility admission or that the provision of specialized services is not normally needed. The applicable Level II authority may make an advance group determination that nursing facility care is needed for persons in the following categories.

1. Convalescent Care. If an applicant appears to be in need of Level II assessment but is hospitalized for a serious illness and needs time to convalesce before a valid Level II assessment can be performed, provisions may be made for temporary medical certification for nursing facility care. The maximum period of time that a Level II assessment may be delayed is 90 days. The period of convalescence allowed will be consistent with the diagnosis and medical condition of the individual.

2. Terminal Illness. Terminally ill applicants, who are not a danger to themselves or others, may be categorically approved for nursing facility admission. This categorical eligibility determination is valid for six months at a time, in accordance with the definition of terminal illness used for hospice purposes, and remains valid as long as the applicant's mental condition does not create a barrier to receiving the necessary nursing facility services.

3. Severe Physical Illness. Severely ill applicants, who are not a danger to themselves or others and whose medical condition prevents them from engaging in specialized services, may be categorically approved for nursing facility admission. The attending physician shall determine that the applicant is unable to benefit from specialized services due to the severe level of physical impairment. This categorical determination also remains valid for six months to allow for an individualized assessment of the resident's needs. Severe physical conditions considered in this category include, but are not limited to:

- a. coma;
- b. ventilator dependence;
- c. functioning at a brain stem level;
- d. chronic obstructive pulmonary disease;
- e. Parkinson's disease;
- f. Huntington's disease;
- g. amyotrophic lateral sclerosis; and
- h. congestive heart failure.

4. Provisional Admissions

a. An applicant who is not a danger to himself or others, but who exhibits symptoms of delirium, may be categorically approved for nursing facility admission pending further assessment when the delirium clears and an



accurate diagnosis can be made. This categorical determination may be valid for a period not to exceed 30 days.

b. An applicant who is in an emergency situation and requires protective services may be categorically approved for nursing facility admission pending further assessment. This categorical determination may be valid for a period not to exceed seven days.

5. Respite Care. An applicant who qualifies for nursing facility care and is not a danger to self or others, but resides at home with care from a family member or other caregiver, may be categorically approved for admission in order to provide respite to the in-home caregiver. Respite provides relief to the caregiver when that individual is unable to provide care for a short period of time.

6. Dementia/ID. This category applies to applicants who are intellectually disabled or have indications of intellectual disability, but also exhibit symptoms associated with dementia. These individuals require supervision in a structured environment and a planned program of activities. This categorical determination may remain valid for a period not to exceed one year or until such time that the Level II authority makes a determination that an alternative placement is more appropriate.

B. Although an advanced group determination may be made at admission, the applicable Level II authority must still make a determination regarding the need for specialized services (based on an individual evaluation) for continuation of stay.

C. In each case that specialized services are determined not to be necessary, it remains the responsibility of the nursing facility to notify the appropriate agency if the resident's mental condition changes and becomes a barrier to utilizing nursing facility services, or the resident becomes a danger to himself or others.

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 36:1011 (May 2010).

#### **§507. Exempted Hospital Discharges**

A. An individual who is being discharged from a hospital and is seeking nursing facility admission may be exempt from preadmission screening if all of the following criteria are met:

1. the individual is being admitted to a nursing facility (NF) directly from a hospital after receiving acute inpatient care;
2. the individual requires NF services for the condition for which he or she received care in the hospital; and
3. his/her attending physician has certified before the admission to the facility that he or she is likely to require less than 30 days of nursing facility services.

B. If after admission it becomes apparent that a longer stay is required, the nursing facility must refer the individual to the appropriate Level II authority for assessment within 30 days of the admission date.

1. Approval for the admission will continue to the fortieth calendar day from the date of admission pending the Level II determination.

C. Exempted hospital discharges are only applicable for persons with MI and/or ID. This exempted discharge does

not apply to any other program or for transfers between nursing facilities.

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 36:1012 (May 2010).

#### **§509. Changes in Level of Care and Status**

A. The nursing facility shall notify the parish Medicaid office via the BHSF Form 148 of the following changes in a resident's circumstances:

1. changes in the level of care;
2. transfers to another nursing facility;
3. changes in payer source;
4. hospital/home leave and returns; or
5. discharges home, death or any other breaks in facility care.

B. The nursing facility must inform the appropriate Level II authority if an individual with a diagnosis of MI and/or ID is subject to readmission or interfacility transfer and there has been a substantial change in the individual's condition. Readmissions and interfacility transfers are subject to annual resident reviews rather than preadmission screening.

1. An individual is considered to be a readmission if he/she was readmitted to a facility from a hospital to which he/she was transferred for the purpose of receiving care.

2. Interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 36:1012 (May 2010).

#### **§511. Denials and Appeals Process**

A. If an individual is determined not to need nursing facility services and is denied admission, the individual has a right to appeal the decision through the department's established appeal procedures.

1. A denial notice will be sent to the individual and he/she may use that letter to request a fair hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 36:1012 (May 2010).

### **Subpart 3. Standards for Payment**

#### **Chapter 101. Nursing Facilities**

#### **Subchapter F. Vendor Payments**

#### **§10146. Medical Eligibility Determination Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR.23:1317 (October 1997), repealed by the Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:1012 (May 2010).

#### **Subchapter H. Admission Review and Pre-admission Screening**

#### **§10157. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), repealed by the Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:1012 (May 2010).

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.

Alan Levine  
Secretary

1005#101

## RULE

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

#### Nursing Facility Minimum Licensing Standards Dementia Training Requirements (LAC 48:I.9727)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.9727 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2200.1-2200.5. 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

#### Chapter 97. Nursing Facility

#### Subchapter A. General Provisions

#### §9727. Staff Orientation, Training and Education

A. - G.2.a.v. ...

Note: For purposes of this section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

G.2.b. - 3.c. ...

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Nothing herein shall be construed to increase the number of training hours already required by regulations promulgated by the department.

6. Any dementia-specific training received in a nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services may be used to fulfill the training hours required pursuant to this Section.

7. Nursing facility providers may offer an approved complete training curriculum themselves or may contract with another organization, entity, or individual to provide the training.

a. - e. Repealed.

8. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. qualifications of the person(s) or entity that developed the training; and
- c. information on how the training will be delivered (i.e., web-based, classroom, etc.)

9. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.

- a. A significant change occurs when there is:
  - i. any change of 50 percent or more to the training content;
  - ii. a change to the content regarding three or more required topic areas; or
  - iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).

b. Continuing education undertaken by the provider does not require the department's approval.

10. If a provider, organization, entity or individual with an approved curriculum ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity or individual must reapply to the department for approval to resume the program.

a. - a.ii. Repealed.

11. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.

a. - b. Repealed.

12. Disqualification of Training Programs and Sanctions.

a. The department may disqualify a training curriculum offered by a provider, organization, entity or individual that has demonstrated substantial noncompliance with training requirements, including, but not limited to the:

- i. qualifications of the person(s) or entity that developed the training;
- ii. the minimum qualifications of the person(s) or entity delivering the training; or
- iii. training curriculum requirements.

13. Compliance with Training Requirements.

a. The review of compliance with training requirements will include, at a minimum, a review of:

- i. the documented use of an approved training curriculum; and
- ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

14. Training Exclusions and Timelines

a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.

b. Nursing facilities must comply with these dementia training requirements by January 1, 2011.

i. Existing staff must be trained in accordance with these provisions by January 1, 2011.

ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4 and R.S. 40:2200.1-2200.5.

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

Alan Levine  
Secretary

1005#102

## RULE

### Department of Health and Hospitals Office of Public Health

Disease Reporting Instructions;  
Perinatal HIV Exposure Reporting  
(LAC 51:II.Chapter 1)

Pursuant to the authority granted under R.S. 40:5, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Part II, Chapter 1 of the Public Health Sanitary Code (LAC 51:II.Chapter 1), providing for the control of diseases and disease reporting requirements.

The Rule change serves to update the disease reporting instructions in line with current practice; to add two conditions to the list of reportable diseases/conditions (HIV infection in pregnancy and perinatal exposure to HIV) in order to support efforts to monitor and prevent mother-to-child transmission of HIV; to clarify the responsibility for disease reporting by facilities in the absence of a health care professional as listed in the current Rule; and to further specify the purposes for which the state health officer may need to obtain laboratory specimens when investigating cases of communicable disease.

#### Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part II. The Control of Diseases

#### Chapter 1. Disease Reporting Requirements

#### §101. Definitions

##### [formally paragraph 2:001]

A. ...

\*\*\*

*Case of Perinatal Exposure to Human Immunodeficiency Virus (HIV)*—any instance of a live birth to a woman in whom HIV infection was present prior to the birth (indicated by maternal or neonatal HIV testing). Laboratory test results for perinatal exposure to HIV include results of HIV-related tests for any child 0 to 6 years of age, regardless of test result.

\*\*\*

**AUTHORITY NOTE:** The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), LR 36:1014 (May 2010).

#### §105. Reportable Diseases and Conditions

##### [formerly paragraph 2:003]

A. - A.1. ...

#### 2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known:

- i. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);
- ii. Aseptic meningitis;
- iii. Chancroid<sup>1</sup>;
- iv. Escherichia coli, Shiga-toxin producing (STEC), including E. coli O157:H7;
- v. Hantavirus Pulmonary Syndrome;
- vi. Hemolytic-Uremic Syndrome;
- vii. Hepatitis A (acute illness);
- viii. Hepatitis B (acute illness and carriage in pregnancy);
- ix. Hepatitis B (perinatal infection);
- x. Hepatitis E;
- xi. Herpes (neonatal);
- xii. Human Immunodeficiency Virus [(HIV), infection in pregnancy]<sup>2</sup>;
- xiii. Human Immunodeficiency Virus [(HIV), perinatal exposure]<sup>2</sup>;
- xiv. Legionellosis;
- xv. Malaria;
- xvi. Mumps;
- xvii. Pertussis;
- xviii. Salmonellosis;
- xix. Shigellosis;
- xx. Syphilis<sup>1</sup>;
- xxi. Tetanus;
- xxii. Tuberculosis<sup>3</sup>;
- xxiii. Typhoid Fever.

#### 3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Acquired Immune Deficiency Syndrome (AIDS)<sup>2</sup>
- ii. Blastomycosis;
- iii. Campylobacteriosis;
- iv. Chlamydial infection<sup>1</sup>;
- v. Coccidioidomycosis;
- vi. Cryptococcosis;
- vii. Cryptosporidiosis;
- viii. Cyclosporiasis;
- ix. Dengue;
- x. Ehrlichiosis;
- xi. Enterococcus, Vancomycin Resistant [(VRE), invasive disease];
- xii. Giardia;
- xiii. Gonorrhea<sup>1</sup>;
- xiv. Hansen Disease (leprosy);
- xv. Hepatitis B (carriage, other than in pregnancy);
- xvi. Hepatitis C (acute illness);

- xvii. Hepatitis C (past or present infection);
- xviii. Human Immunodeficiency Virus [(HIV) infection, other than as in Class B]<sup>2</sup>;
- xix. Listeria;
- xx. Lyme Disease;
- xxi. Lymphogranuloma venereum<sup>1</sup>;
- xxii. Psittacosis;
- xxiii. Rocky Mountain Spotted Fever (RMSF);
- xxiv. Staphylococcal Toxic Shock Syndrome;
- xxv. Staphylococcus aureus, Methicillin/Oxacillin Resistant [(MRSA), invasive infection];
- xxvi. Streptococcal disease, Group A (invasive disease);
- xxvii. Streptococcal disease, Group B (invasive disease);
- xxviii. Streptococcal Toxic Shock Syndrome;
- xxix. Streptococcus pneumoniae, Penicillin Resistant [(DRSP), invasive infection];
- xxx. Streptococcus pneumoniae (invasive infection in children <5 years of age);
- xxxi. Transmissible Spongiform Encephalopathies;
- xxxii. Trichinosis;
- xxxiii. Varicella (chickenpox);
- xxxiv. Vibrio infections (other than cholera).

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Cancer;
- ii. Monoxide exposure and / or poisoning;
- iii. Complications of abortion;
- iv. Congenital hypothyroidism<sup>4</sup>;
- v. Galactosemia<sup>4</sup>;
- vi. Heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (All Ages)<sup>5</sup>;
- vii. Hemophilia<sup>4</sup>;
- viii. Lead exposure and/or poisoning (children)<sup>4</sup>; (adults)<sup>5</sup>;
- viii. Pesticide-related illness or injury (all ages);<sup>5</sup>
- ix. Phenylketonuria<sup>4</sup>;
- x. Reye's Syndrome;
- xi. Severe traumatic head injury;
- xii. Severe under nutrition (severe anemia, failure to thrive);
- xiii. Sickle cell disease (newborns)<sup>4</sup>;
- xiv. Spinal cord injury;
- xv. Sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by mail or facsimile on Confidential Disease Report forms, or by phone. (ssCall 800-256-2748 for forms and instructions.)

1. <sup>1</sup>Report on STD-43 form. Report cases of syphilis with active lesions by telephone, within one business day, to 504-219-4429.

2. <sup>2</sup>Report to the Louisiana HIV/AIDS Program: Visit [www.hiv.dhh.louisiana.gov](http://www.hiv.dhh.louisiana.gov) or call 504-568-7474 for regional contact information.

3. <sup>3</sup>Report on CDC72.5 (f.5.2431) card.

4. <sup>4</sup>Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs: [www.genetics.dhh.louisiana.gov](http://www.genetics.dhh.louisiana.gov) or call 504-219-4413 or 800-242-3112.

5. <sup>5</sup>Report to the Section of Environmental Epidemiology and Toxicology: [www.seet.dhh.louisiana.gov](http://www.seet.dhh.louisiana.gov) or call 888-293-7020.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), LR 36:1014 (May 2010).

**§107. Physicians Reporting Duties [formerly paragraph 2:004]**

A. It is hereby made the duty of every physician practicing medicine in the state of Louisiana to report to the state health officer (as per §105.B) any case or suspected case of reportable disease or condition which he or she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset.

B. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 36:1015 (May 2010).

**§109. Reports by All Health Care Providers and by Other Facilities, Programs, and Entities [formerly paragraph 2:006]**

A. It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, laboratory director, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, poison control center, social worker, veterinarian, and any other health care professional to report a positive laboratory result or a confirmed or suspected case of any reportable disease or condition as specified in §105 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge. In the absence of a health care professional responsible for reporting as per the above or §107, it shall be the duty of the director, chief administrative officer, or other-in-charge of any facility, program, or other entity that requires or conducts testing for reportable diseases or conditions, to report a positive laboratory result or a confirmed or suspected case of any reportable disease or condition as specified in §105.

AUTHORITY NOTE: Promulgated in accordance with the provisions or R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 32:1051 (June 2006), LR 36:1015 (May 2010).

**§111. Reports Required of Parents, Schools and Day Care Centers [formerly paragraph 2:007]**

A. It shall be the duty of every parent, guardian, householder, attendant or other in charge, principal of a public or private school, operator of a day care center or

residential facility (public or private) to report a case of reportable disease in his household or school to the state health officer (as per §105.B), when he or she knows or reasonably believes that the disease is one which legally must be reported, except when he or she knows or reasonably believes that a physician, presumed to have already reported the case, is in attendance.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002), amended LR 36:1015 (May 2010).

**§115. Investigations**  
**[formerly paragraph 2:009]**

A. ...

B. [Formerly paragraph 2:010] The state health officer is hereby empowered and it is made his or her duty whenever a case of communicable disease occurs, to obtain laboratory specimens of body tissues, fluids or discharges and of materials directly or indirectly associated with the case as may be necessary or desirable in confirmation of the diagnosis or for ascertaining the source of the infection, recency of onset, strain of organism, and/or medication resistance, when acceptable laboratory and medical reports are not available. Whenever laboratory tests are required for the release of cases or carriers or suspected cases or carriers, the state health officer shall be satisfied that a sufficient number of specimens are examined, that the specimens are authentic and are examined in an acceptable laboratory.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 36:1016 (May 2010).

Alan Levine  
Secretary

1005#037

**RULE**

**Department of Health and Hospitals**  
**Office of Public Health**

**Preparation and Handling of Seafood for Market**  
**(LAC 51:IX. 327, 329 and 331)**

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(1)(a) and R.S. 40:5, amends and revises LAC Title 51 (Public Health—Sanitary Code), Part IX (Marine and Fresh Water Animal Food Products), by effecting substantive changes as outlined below. The change will result in code provisions which are consistent with the National Shellfish Sanitation Program (NSSP) 2007 Model Ordinance. The NSSP is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part IX. Marine and Fresh Water Animal Food**  
**Products**

**Chapter 3. Preparation and Handling of Seafood for**  
**Market**

**§327. Refrigeration of Shell-Stock Oysters, Clams and**  
**Mussels [formerly paragraph 9:052]**

A. ...

B. All shellstock harvested for raw consumption shall be placed under temperature control in accordance with the requirements specified under Subsection A of Section 329 of this Part. Any shellstock harvested which exceeds the time-temperature matrix requirements of Subsection A of Section 329 of this Part shall not be provided to or served to anyone for the purpose of raw consumption, but shall only be provided to a certified dealer for the express purposes of shucking or post-harvest processing only.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010).

**§329. Refrigeration Requirements for Shell-Stock**  
**Harvested for Raw Consumption during the**  
**Months January through December**  
**[formerly paragraph 9:052-1]**

A. Time to refrigeration requirements for shell-stock harvested for raw consumption during the months January through December shall be based on the average monthly growing water temperatures based on the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program according to the following schedule.

1. Water temperature: <65°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 36 hours from the time harvesting begins. Internal oyster meat temperature of 55°F must be achieved in 10 hours from when oysters are placed in mechanical refrigeration.

2. Water temperature: 65°F to 74°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 8 hours from the time harvesting begins. Internal oyster meat temperature of 55°F must be achieved in 10 hours from when oysters are placed in mechanical refrigeration.

3. Water temperature: >74°F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 1 hour from the time harvesting begins. Internal oyster meat temperature of 55°F must be achieved within 6 hours from when oysters are placed in mechanical refrigeration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010).

**§331. Refrigeration Requirements for Shell-Stock Harvested for Shucking or Post-Harvest Processing by a Certified Dealer during the months January through December [formerly paragraph 9:052-2]**

A. ...

1. All shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° no later than 12 midnight each day, except for the months of December, January, and February.

2. Dealer/harvester tags utilized to identify shell-stock harvested for shucking or post-harvest processing by a certified dealer must be identified with the green tag which states: "FOR SHUCKING BY A CERTIFIED DEALER OR POST-HARVEST PROCESSING ONLY".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 35:1239 (July 2009), LR 36:1017 (May 2010).

Alan Levine  
Secretary

1005#038

**RULE**

**Department of Natural Resources  
Office of Conservation**

Manifest System—Statewide Order No. 29-B  
(LAC 43:XIX.545)

The Louisiana Office of Conservation has amended LAC 43:XIX.545 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana. The amendment allows commercial facilities to accept E and P Waste when Part II of the "E and P Waste Shipping Control Ticket" is incomplete or improperly completed, so long as the remainder of the manifest is properly completed. Furthermore, the amendment requires a commercial facility to forward to the Office of Conservation, within 24 hours of receipt, any manifests regarding accepted E and P Waste shipments which did not have a completed Part II of the "E and P Waste Shipping Control Ticket".

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 1. Statewide Order No. 29-B**

**Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells**

**§545. Manifest System**

A. In order to adequately monitor the movement and disposal of E and P Waste, every shipment of E and P Waste transported to a commercial facility or transfer station shall be accompanied by a manifest entitled "E and P Waste Shipping Control Ticket." It is expressly forbidden to transport or accept E and P Waste without a properly completed manifest form, with the following exception:

commercial facilities and transfer stations shall be allowed to accept E and P Waste when the Public Service Commission Permit Code Box found in Part II of the E and P Waste Shipping Control Ticket is either empty or improperly completed, so long as the remainder of the manifest, including the remainder of Part II, is properly completed.

B. - K. ...

L. A commercial facility or transfer station shall forward, by facsimile, a copy of any manifest accepted with an empty or improperly completed Public Service Permit Code Box to the Office of Conservation within 24 hours of its receipt. The commercial facility or transfer station shall mail the manifest to the Office of Conservation, immediately following its delivery via facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1911 (November 2001), amended LR 36:1017 (May 2010).

James H. Welsh  
Commissioner

1005#060

**RULE**

**Department of Public Safety and Corrections  
Corrections Services**

Regulation of Air Traffic (LAC 22:I.105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 105 Regulation of Air Traffic.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT**

**Part I. Corrections**

**Chapter 1. Secretary's Office  
§105. Regulation of Air Traffic.**

A. Purpose. To state the secretary's policy regarding air traffic at correctional institutions.

B. Applicability—deputy secretary, chief of operations, regional wardens and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that all incoming and outgoing aircraft to and from the institutions be monitored.

D. General Procedures

1. Individuals who have reason to come to the institutions via aircraft must request permission and receive authorization in advance, by telephone or in writing, to land at the institution - specifically to land on the airstrip at the Louisiana State Penitentiary or Dixon Correctional Institute.

2. Requests shall be directed to the warden's office during regular business hours, Monday through Friday. Calls received after hours or on weekends or holidays shall be handled by the duty officer.

3. The individual requesting permission to land must provide the following information:

- a. reason for coming to the institution;
  - b. date and expected time of arrival;
  - c. number and names of persons aboard aircraft;
- and
- d. type of aircraft, color and registration number.

4. The warden's office shall notify the control center of approved air traffic. The control center shall notify the designated prison tower officer(s) or other appropriate officers of the incoming air traffic, the expected time of arrival and description of the aircraft. The tower officer shall, in turn, inform the control center when the aircraft arrives. The control center shall then dispatch security to meet the incoming aircraft and to verify the identification of the occupants and provide ground transportation when necessary.

5. A log shall be maintained by security of all aircraft that lands or departs from an institution. This log shall contain the date, time of arrival, type of aircraft, color, registration number and the names of passengers.

6. Low flying aircraft attempting to land anywhere within the vicinity of any institution shall be reported to the control center immediately. The control center shall notify security and other appropriate personnel as designated by the warden.

7. Each warden is responsible for developing written procedures for handling unauthorized and/or emergency landing situations and for securing offenders in the immediate area.

8. Private aircraft may be stored on state property with the warden's approval. If approved, the owner shall maintain liability insurance on the aircraft at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Correction Services, LR 31:1097 (May 2005), amended LR 36:1017 (May 2010).

James M. Le Blanc  
Secretary

## RULE

### Office of Public Safety and Corrections Gaming Control Board

Accounting Regulations  
(LAC 42:VII.2707, 2715, and 2723; IX.2707, 2715,  
2717, and 2723; and XIII.2707, 2717, and 2723)

The Louisiana Gaming Control Board hereby gives notice that it has amended LAC 42:VII, IX, and XIII.2707 and 2723; VII and IX.2715; and IX and XIII.2717.

#### Title 42

#### LOUISIANA GAMING

#### Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

#### Chapter 27. Accounting Regulations

#### §2707. Record Retention

A. ...

B. Each Type A licensee shall conduct a complete system data backup to an off-site location a minimum of once a

month. For purposes of this rule, the off-site storage facility is specified in the Type A licensee's internal controls. A complete system data backup includes, but is not limited to:

1. all automated slot data information;
2. all automated cage and credit information; and
3. all automated revenue reports.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:2647 (December 2008), LR 36:1018 (May 2010).

#### §2715. Internal Control; General

A. - N. ...

O. - Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000), amended LR 26:2305 (October 2000), LR 34:2647 (December 2008), LR 36:1018 (May 2010).

#### §2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week and shall be recorded by surveillance. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. If at any time surveillance observes the visibility of count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees.

Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:2648 (December 2008), LR 35:2198 (October 2009), LR 35:2815 (December 2009), LR 36:1018 (May 2010).

#### Part IX. Landbased Casio Gaming

#### Subpart 1. Economic Development and Gaming Corporation

#### Chapter 27. Accounting Regulations

#### §2707. Record Retention

A. ...

B. The casino operator or casino manager shall conduct complete system data backups to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the casino operator or casino manager's internal controls. A complete system data backup includes, but is not limited to:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925

(October 1999), amended LR 34:2654 (December 2008), LR 35:2816 (December 2009), LR 36:1018 (May 2010).

**§2715. Internal Control; General**

- A. - N. ...
- O. Repealed.
- P. ...
- Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2655 (December 2008), LR 35:2816 (December 2009), LR 36:1019 (May 2010).

**§2717. Internal Controls; Table Games**

- A. - J.4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and recorded by surveillance. At least one surveillance or internal audit employee shall monitor the table count process on at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

- K.1. - P.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1930 (October 1999), amended LR 34:2656 (December 2008), LR 36:1019 (May 2010).

**§2723. Internal Controls; Slots**

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

- B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be recorded by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

- Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), LR 34:2657 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:1019 (May 2010).

**Part XIII. Riverboat Gaming**

**Subpart 2. State Police Riverboat Gaming Division**

**Chapter 27. Accounting Regulations**

**§2707. Record Retention**

- A. ...

B. Each licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the licensee's internal controls. A complete system data backup includes, but is not limited to:

- B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2233 (November 1999), amended LR 34:2665 (December 2008), LR 36:1019 (May 2010).

**§2717. Internal Controls; Table Games**

- A. - J.4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and recorded by surveillance. At least one surveillance or internal audit employee shall monitor the count process on at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

- K.1. - P.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1882 (October 1999), repromulgated LR 25:2237 (November 1999), amended LR 34:2666 (December 2008), LR 36:1019 (May 2010).

**§2723. Internal Controls; Slots**

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

- B. - Q.9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be recorded by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process on at least one randomly selected day per calendar week. Surveillance shall



record on the surveillance log any exceptions or variations to established procedures observed during the count.

Q.11. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), LR 34:2667 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:1019(May 2010).

Dane K. Morgan  
Chairman

1002#003

## RULE

### Department of Public Safety and Corrections Office of the Fire Marshal Code Enforcement and Building Safety

#### Industrialized Buildings (LAC 55:V.Chapter 27)

In accordance with the provisions of R.S. 40:1730.51 through 1730.66, relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal has adopted the following Rule regarding the regulation of industrialized buildings.

#### Title 55

#### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 27. Industrialized Buildings

#### §2701. Definitions

A. For the purpose of this Chapter, the following words, unless the context does not permit, shall have the meanings indicated.

*Agency*—an individual or entity, which may be a private sector entity, a state department or a local government determined by the State Fire Marshal to be qualified pursuant to this Chapter to inspect the construction of industrialized building units, systems, or the component parts thereof together with the pre-approved plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein adopted and to assign and attach the decal of the State Fire Marshal to such units complying with those standards.

*Building Code*—the Louisiana State Uniform Construction Code provided for in R.S. 40:1730.21 et seq.

*Building Official*—the officer or other designated authority or their duly authorized representative charged with the administration of the applicable technical codes in the subject jurisdiction.

*Closed Construction*—a building, component, assembly, subassembly, or system manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction thereof.

*Component*—see *modular component*.

*Construction Site Building*—a commercial structure that is not open to the public and is used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property.

*Council*—the Louisiana State Uniform Construction Code Council.

*Data Plate*—a plate which is permanently mounted on an industrialized building or component which contains design information as noted in §2713.I herein.

*Dealer*—any person, corporation or business which has been registered to engage in leasing, selling or distribution of industrialized buildings for placement in the state of Louisiana.

*Decal*—the approved form of label issued by the Office of State Fire Marshal to be permanently affixed to the building or module indicating that it has been constructed to meet or exceed the code requirements and in compliance with the provisions of this part.

*Enforcement Agency*—an agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.

*Equipment*—all equipment, material, appliances, devices, fixtures, fittings or accessories installed in, or used in, the manufacture and assembly of an industrialized building.

*Facility*—the physical location of a manufacturing plant where buildings or components are constructed, or the physical location of a dealer where buildings or components are stored.

*Industrialized Building*—a commercial structure that is erected or installed using one or more modules or one or more modular components that are constructed at a location other than the commercial site; is designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed; includes the structure's plumbing, heating, air conditioning, and electrical systems; includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site. An *industrialized building* does not include a commercial structure that exceeds three stories or forty-nine feet in height as measured from the finished grade to the peak of the roof.

*Installation*—the assembly of an industrialized building component or system on site and the process of affixing an industrialized building component or system to land, a foundation, or an existing building, or service connections which are part thereof.

*Labeled*—affixed with a decal or data plate.

*Manufacture*—the process of making, modifying, fabricating, constructing, forming or assembling or reassembling a product from raw, unfinished, semifinished, or finished materials.

*Manufacturer*—any person who, or entity which, has been registered to produce or modify industrialized buildings for placement in the state of Louisiana.

*Model*—a specific design of industrialized buildings which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Office of State Fire Marshal.

*Modification*—any change to an industrialized building which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flame spread or accessibility of the building to persons with disabilities.

*Modular Component*—a structural part of a building constructed at a location other than the commercial site in a manner that prevents the construction from being adequately inspected for building code compliance at the commercial site without damage or removal and reconstruction of a part of the building.

*Modular Section*—see *module*.

*Module*—a three dimensional section of industrialized building designed and approved to be transported as a single section independent of other sections, with or without other modules or modular components, that prevents the construction from being adequately inspected for building code compliance without damage or removal and reconstruction of a part of the building.

*Occupancy Classification*—the purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.

*Open Construction*—any industrialized building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to or destruction thereof.

*Quality Control Manual*—a manual which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby.

*Standard Design*—any building system, model, series or component intended for duplication or repetitive manufacture.

*State Fire Marshal*—the Louisiana Office of State Fire Marshal Code Enforcement and Building Safety.

*Third-Party*—an individual or individuals registered with the Council as a code enforcement officer in accordance with R.S. 40:1730.34 through 1730.38 and LAC 55:VI.7.

*Traveler*—a form utilized in a manufacturing facility in conjunction with the manufacturer's quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2467 (November 2009), amended LR 36:1020 (May 2010).

### **§2703. Administration and State Fire Marshal**

#### **Authority**

A. Forms. A manufacturer's application for registration, a dealer's application for registration, a plan review application, a decal request form, and a decal disposition

report per §2727 herein shall be submitted on forms provided by the State Fire Marshal.

B. Registration. The State Fire Marshal shall register manufacturers and dealers in accordance with this chapter. All registrations and approvals granted by the State Fire Marshal pursuant to §2705 and §2707 herein are subject to revocation for failure to adhere to these rules, as provided for in §2729 herein.

C. Third-Parties. Third-parties shall be properly registered with the council for the type of project he or she will inspect.

1. Monitoring. The State Fire Marshal, through his employees or his designated performance auditors, shall monitor the performance of manufacturers, dealers, and third-parties.

2. Auditing. Each registered manufacturer shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to manufacturing facilities may be utilized unless impractical. Information obtained through monitoring shall remain confidential to the extent permitted by law. Manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer complies with the applicable codes and standards. Any determination of nonconformance with any applicable provision shall be reported to the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The State Fire Marshal shall determine the appropriate corrective action subject to the requirements of §2729 herein.

3. Oversight. The manufacturer shall be responsible for correcting code violations. The State Fire Marshal shall make an independent determination regarding the existence of a violation. The State Fire Marshal may allow a third-party to investigate complaints and notify the State Fire Marshal regarding the existence of a code violation and disposition thereof.

4. Permits. In accordance with the requirements set forth in R.S. 40:1730.63(A) and 1730.65.C(3). The State Fire Marshal shall provide by rule for the placement of decals or insignia on each transportable modular section or modular component to indicate compliance with the building code. A parish or municipal building official is authorized to require, in accordance with these rules, that all modules or modular components bear an approved decal. As such, no governmental subdivision in the state of Louisiana shall issue any building permit for installation of an industrialized building unless the building contains a valid decal issued in accordance with §2723 herein.

5. Occupancy. In accordance with the requirements set forth in R.S. 40:1730.56(A) and (B), industrialized buildings constructed after January 1, 2007 shall meet or exceed the requirements of the building code and the State Fire Marshal in accordance with R.S. 40:1574 through 1593. Occupancy of any structure found in violation of the law and these rules will not be granted by the State Fire Marshal as provided for in LAC 55:V:307-309 until compliance can be verified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal

Code Enforcement and Building Safety, LR 35:2469 (November 2009), amended LR 36:1021 (May 2010).

#### **§2705. Manufacturer Registration**

A. General. All individuals or entities manufacturing buildings or components intended for installation in Louisiana shall be registered with the State Fire Marshal. In the event that a manufacturer has more than one facility producing industrialized buildings, the manufacturer shall obtain registration for each such facility individually.

B. Initial Registration Requirements. A manufacturer shall submit the following to the State Fire Marshal for registration:

1. a completed application for registration and a copy of a current valid contract with a third-party for inspection services;

2. description of manufacturing facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location map of the facility;

3. a quality assurance control manual in accordance with §2721;

4. appropriate fees in accordance with §2737.

C. Multiple Facilities. The manufacturer shall register each of its facility locations separately. A quality assurance control manual shall be kept at each location.

D. Renewal. The manufacturer shall renew its registration every 12 months and shall update the information required by §2705.B and submit to the State Fire Marshal. If the manufacturer does not complete the renewal information by the registration expiration date, registration becomes expired. The manufacturer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

E. Change of Ownership. When the ownership of a manufacturer changes, the new owner shall within 21 days:

1. Inform the State Fire Marshal in writing of such change of ownership with an effective date.

2. Submit a completed manufacturer's application to the State Fire Marshal in accordance with §2705.

F. Change of Name and Address. In the event of a change in the name or mailing address of any manufacturer or inspection agency, the State Fire Marshal shall be notified in writing within ten days.

G. Change or Additions to a Facility. In the event of a change or an addition to a facility, the manufacturer shall revise and resubmit all items as required by §2705.B to the State Fire Marshal prior to production of any buildings, modules, or components intended for sale in Louisiana.

H. Change of Manufacturer's Third-Party Inspection Agency

1. The manufacturer shall immediately inform the State Fire Marshal in writing of any change of third-party provider. No manufacturing shall be performed and no decals shall be placed on any industrialized building, module, or modular component until an approved third-party has been retained.

2. The manufacturer shall submit to the State Fire Marshal a copy of the service agreement with the new third-party agency reflecting the effective date.

3. The new third-party agency shall review the quality control manual of the manufacturer, perform an initial plant

certification inspection, and provide a plant certification report to the State Fire Marshal in accordance with §2735 of this part.

I. Termination of State Registration. In the event that a manufacturer chooses to discontinue business in Louisiana, the State Fire Marshal shall be notified in writing at least 30 days prior to the effective date. Such notice shall serve as a resignation of the registration and any subsequent resumption of business activities will require a new submittal in accordance with §2735.B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2469 (November 2009), amended LR 36:1022 (May 2010).

#### **§2707. Dealer Registration**

A. All individuals or entities engaged in leasing or selling industrialized buildings or components for installation in Louisiana shall be registered with the State Fire Marshal.

B. Initial Registration Requirements. A dealer shall submit the following to the State Fire Marshal for registration:

1. a completed application for registration;

2. identification of principals which shall at a minimum include the positions of partners if the dealer is a partnership or its officers, directors, controlling owners and registered agent if the dealer is a corporation;

3. description of dealer's facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location plan of the facility;

4. appropriate fees in accordance with §2737.

C. The dealer shall submit a separate application for each separate facility location.

D. Renewal. The dealer shall renew its registration every 12 months and shall update the information provided in §2735 of this part and submit to the State Fire Marshal. If the dealer does not complete the renewal information by the registration expiration date, registration becomes expired. The dealer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2470 (November 2009), amended LR 36:1022 (May 2010).

#### **§2709. Reserved**

#### **§2711. Reserved**

#### **§2713. Design and Component Review**

A. General. A plan approval of each building and modular component design shall be contingent upon compliance with the requirements of the State Fire Marshal, these rules, and the codes and standards referenced in R.S. 40:1730.56. The applicant shall submit plans and information as required by §2713.B for all new construction of buildings and renovations to existing buildings for approval by the office of State Fire Marshal in accordance with R.S. 40:1730.59 and R.S. 40:1730.66. The Office of State Fire Marshal, upon review of the plans, may request

any additional information necessary to evaluate the plans submitted and shall notify the applicant of any apparent errors or omissions. Manufacturing, modifications, or alterations shall not commence until a full submittal to the State Fire Marshal has been made in accordance with this Section and a complete plan review has been performed by either an approved third-party or the State Fire Marshal. Plan approvals are valid for 180 days from the date of the review, or until notification that the applicable standards referenced in R.S. 40:1730.56 are to be updated, modified, or changed, whichever is later.

**B. Third-Party Plan Review**

1. All building code plan reviews performed by a third-party must be documented in writing to the State Fire Marshal. The plan review report, as a minimum, shall contain the following information:

- a. name of registered third-party inspector and council issued registration number;
- b. name of manufacturer and State Fire Marshal issued registration number;
- c. date of plan review;
- d. the identification number, plan number, or serial number of the building or component reviewed;
- e. a list of all applicable codes and editions reviewed for compliance;
- f. a statement indicating that information contained in the design plan submittal (pursuant to §2713.C) has been reviewed for compliance with the applicable codes;
- g. a final report indicating any nonconformities observed and corrective actions required, when applicable.

2. A copy of the reviewed and approved plans shall be submitted with the plan review report to the State Fire Marshal for oversight along with any additional information required with the design plan submittal pursuant to §2713.C. Manufacturing may commence upon approval from the registered third-party; however, any additional deficiencies detected by the State Fire Marshal during the design plan submittal review shall be corrected. Decals shall not be affixed to the building or component until oversight has been performed by the State Fire Marshal.

**C. Design Plan Submittal.** Complete sets of design plans and specifications shall be prepared and sealed by an architect or engineer licensed to practice in the state of Louisiana when required by Louisiana law or by the State Fire Marshal. Plans shall be drawn to scale and shall be legible for reproduction purposes. Supporting calculations and any required test results shall also be provided for each building design to be reviewed. Information required with each design plan submittal shall be as indicated on the “industrialized buildings plan review checklist” as provided by the State Fire Marshal. A computerized version in an acceptable electronic format shall also be provided for each standard design. The required information for each design shall be submitted with an industrialized building plan review application, a decal request form as provided by the State Fire Marshal, and the appropriate fees as indicated in §2737 herein. The State Fire Marshal shall review the applicant’s submittal and, if deficiencies are detected during the review, shall issue a plan review letter identifying the deficiencies. A revised submittal indicating corrections to these deficiencies shall be resubmitted to the State Fire Marshal within 21 days of the date of the letter for further

review. Once the submittal has been determined to have no deficiencies, the State Fire Marshal shall affix a stamp to each page of the plans and the specifications cover pages reviewed. The submittal package shall be returned with a review letter indicating the limitations of the review along with the requested decals. If corrections to deficiencies are not received within 21 days of the date of the letter, the project will be found to be “not in compliance”. Plan review fees for submittals found “not in compliance” are not refundable.

**D. Modular Component and Modular Section Review.** The applicant shall submit to the State Fire Marshal for review a modular component or modular section which may include any or all elements for use as part of a building, such as structural, mechanical, plumbing, electrical components and/or fire protection systems. Submission shall include all applicable documents and data as indicated in the “design plan submittal” above, providing complete information necessary for evaluation of the component’s performance and capabilities for its intended use.

**E. Fire Protection Systems Review.** Life safety and property protection systems must be submitted to the State Fire Marshal for review by a life safety and property protection contractor licensed by the State Fire Marshal pursuant to §2719 herein.

**F. Equivalent Methods of Compliance.** In accordance with R.S. 40:1730.61, any proposed equivalent or alternative materials or methods of compliance with the referenced codes and standards, except for the Louisiana State Plumbing Code, that are not expressly prescribed therein shall be submitted to the State Fire Marshal for review. Justification for the request and supporting data shall be submitted with a “proposed equivalency to code – request for appeal” application provided by the State Fire Marshal and the appropriate review fee. If the State Fire Marshal determines, from an engineering performance standpoint, that sufficient evidence has been provided to substantiate that the proposed alternative is at least the equivalent of that prescribed by the referenced codes and standards, the State Fire Marshal may approve the use of such material or method. Such approval shall not be construed as an amendment to the technical codes and standards and shall only apply to the specific scope of work identified by a State Fire Marshal issued project number.

**G. Scope of Plan Review.** The scope of an industrialized building, modular component, or modular section plan review is limited to aspects of construction performed at the place of manufacture. The “industrialized building” plan review letter shall not be used to obtain a permit for site installation.

**H. Site-Specific Plan Review Submittal.** Industrialized buildings manufactured and decaled pursuant to §2723 herein, purchased and ready for site-specific installation, shall be submitted to the State Fire Marshal by the owner or his authorized agent for review and approval in accordance with R.S. 40:1730.66 and R.S. 40:1574, prior to obtaining a building permit from the applicable jurisdiction. The industrialized building decal number shall be provided by the owner upon submittal to the State Fire Marshal for this site-specific review.

**I. Manufacturer’s Modular Data Plate.** The manufacturer shall install on all industrialized (modular)

buildings and components, prior to leaving the manufacturing plant, a data plate which shall be permanently mounted on or about the electrical panel, if provided, or as documented on approved plans, and which shall contain, but not be limited to, the following design information when applicable.

1. manufacturer;
2. manufacturer registration number;
3. date of manufacture;
4. date of alteration, if any;
5. number of modules (decal and data plate must be installed on each module);
6. construction type;
7. occupancy use classification;
8. serial number;
9. fire marshal plan review number(s);
10. maximum floor load(s) (pounds per square foot, first floor and upper floors), live load and concentrated load;
11. roof load; live load and snow load;
12. wind velocity rating;
13. "r" value of floor, wall, and roof;
14. approved for flood zone usage (yes/no);
15. applicable codes and editions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2470 (November 2009), amended LR 36:1022 (May 2010).

#### **§2715. Modifications or Alterations to Decaled Buildings**

A. Any unauthorized modification, alteration, or conversion made to an industrialized building, modular component, or modular section previously approved by the State Fire Marshal shall void the decal of approval. The decal affixed to the building shall be removed in accordance with §2729 herein.

B. Pursuant to R.S. 40:1730.56(B), a change in the use of an industrialized building shall be subject to the requirements established for renovations. As such, the provisions of this Section shall apply to such buildings. The provisions of this Section shall not apply to a change in use of an industrialized building which is not accessible by the public.

C. Minor modifications to approved designs during the manufacturing process shall be submitted to the State Fire Marshal for further review and approval prior to decal placement. Major modifications shall be resubmitted for review with information as required by §2713 herein. The classification of scopes of work as minor or major modifications shall be subject to the discretion of the State Fire Marshal.

D. Modifications to existing industrialized buildings bearing a decal that are made other than at the initial manufacturing site shall be approved by the State Fire Marshal.

1. The manufacturer or dealer must provide the State Fire marshal with a set of the original approved plans of the building, revised plans reflecting the proposed modifications, a decal request form, and any additional information as required in §2713 herein. No work shall begin until the plans have been approved by the State Fire Marshal.

2. The State Fire Marshal, a third-party, or the building official for the jurisdiction in which the building is located shall be retained by the manufacturer or dealer in order to provide complete inspections during every stage of construction. Once the agency has tested and/or evaluated each system in the building and certifies to the Office of State Fire Marshal that the building is in compliance with the applicable codes, the Office of State Fire Marshal will authorize placement of an additional decal to be affixed to the building beside the original decal.

3. Pursuant to R.S. 40:1730.58(C), where the cost of the modification or alteration exceeds 50 percent of the value of the modules or modular components, the entire building shall be made to comply with the current adopted edition of the codes. Where the cost of the modification or alteration is less than 50 percent of the value of the modules or modular components, only portions of the building affected by the modification shall be required to comply with the current adopted edition of the codes.

4. A building bearing an approved decal for the recertification shall be deemed to comply with the requirements of all state adopted codes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:1024 (May 2010).

#### **§2717. Industrialized Buildings Constructed Prior to January 1, 2007**

A. Pursuant to R.S. 40:1730.56(B), industrialized buildings constructed prior to January 1, 2007 shall meet or exceed the requirements established by the parish or municipality in which the building is to be located at the time of construction of the industrialized building. If the parish or municipality has not established requirements, compliance with the wind and flood provisions as adopted by the Louisiana State Uniform Construction Code Council shall be required as a minimum standard. Pursuant to R.S. 40:1730.64(D), the State Fire Marshal may approve previously manufactured industrialized buildings when the State Fire Marshal determines that the adopted standards of other states are reasonably consistent with those of the building code in effect at the time of unit manufacture. The previously manufactured industrialized building shall be required to bear a data plate indicating the codes in effect at the time of unit manufacture and any other state labels that are applicable. As such, manufacturers or dealers may apply to the State Fire Marshal for decal placement on buildings that were constructed prior to January 1, 2007.

B. The following shall be required to be submitted to the State Fire Marshal for review when decals are requested:

1. a complete design plan submittal as indicated in §2713 herein;
2. documentation indicating the date of manufacture, serial number of the building, and the applicable codes and editions to which the building was manufactured;
3. documentation indicating approval under an industrialized building program of another state, if applicable;
4. data plate information;

5. the original third-party plan review letter and inspection reports documenting compliance with the codes indicated.

C. The State Fire Marshal shall review the documentation and issue a letter indicating the findings.

1. If found to comply with, as a minimum, the adopted wind and flood provisions, a unique identifiable decal as described in §2723.K herein will be issued to be affixed to the building.

2. If deficiencies are discovered during the review, the procedures indicated in §2713.C herein shall apply.

3. Any required corrections shall be inspected at the place of manufacture in accordance with §2735 herein, or shall be completely inspected by the State Fire Marshal, a third-party, or the building official for the jurisdiction in which the building is located during every stage of modification.

4. A decal disposition report shall be submitted to the State Fire Marshal per §2723 herein.

5. Where modifications are required, all inspection reports shall be submitted to the State Fire Marshal with the disposition report.

D. Site-specific installation of buildings constructed prior to January 1, 2007 that bear a decal are subject to verification by the building official for the jurisdiction in which the building is to be located that the building meets or exceeds the requirements established by the jurisdiction at the time of construction of the industrialized building, in accordance with R.S. 40:1730.56(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2472 (November 2009), amended LR 36:1024 (May 2010).

#### **§2719. Manufacture and Installation of Life Safety and Property Protection Systems**

A. All life safety and property protection systems, including but not limited to, fire sprinkler, fire alarm, fire suppression, electronic locking, closed circuit television, and security systems, must be integrated, installed, certified and serviced by a life safety and property protection contractor properly licensed by the State Fire Marshal pursuant to R.S. 40:1664.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2473 (November 2009), amended LR 36:1025 (May 2010).

#### **§2721. Manufacturer's Quality Control Manual**

A. The manufacturer shall maintain, at each site of manufacture of industrialized buildings, a quality control manual. The manufacturer's quality control manual shall at a minimum contain the following information.

##### **1. Organizational Element**

a. Introduction of the Manufacturer. A brief history which shall, at a minimum, include the length of time that the manufacturer has been in the industrialized buildings industry, where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility.

b. Identification of principals and the positions of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation.

c. An organizational chart showing responsible management and supervisory positions by title. A job description for each of the positions shall be provided.

d. Brief qualifications of all personnel in management and supervisory positions including the quality control manager.

e. Administrative procedure for revision of quality control procedure and quality control manual.

f. Procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, decals used, first destination of labeled buildings or components.

g. Method and frequency for training of quality control and production personnel.

##### **2. Design and specification control:**

a. procedures for revisions to plans;

b. recording system of drawings and specifications.

##### **3. Material control:**

a. inspection procedure of materials, equipment and supplies when received;

b. method of storing and protection of building materials and equipment against damage;

c. provision for disposal of rejected materials, equipment and supplies;

d. forms used.

##### **4. Production control:**

a. a description of manufacturing process—method and sequence of construction;

b. check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler;

c. frequency of quality control inspections;

d. list of tests to be performed, testing equipment, results and technical data acceptable;

e. procedures for timely preventive and remedial measures;

f. assignment of authority to accept or reject work;

g. provision for disposition of rejected items;

h. forms used.

5. Finished product control and identification of products:

a. procedure for handling and storage of finished buildings/modules and components;

b. preparation for shipping, transportation, and delivery;

c. serial numbering system of buildings or components and location of the serial number not readily removable;

d. location of manufacturer's data plate. Information to contain in the data plate;

e. location of Louisiana state decal;

f. forms used.

6. A copy of the initial plant certification report in accordance with §2735 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:1025 (May 2010).

**§2723. Decal Application and Issuance**

A. Each industrialized building, modular section and modular component approved by the State Fire Marshal shall be affixed with a Louisiana State Fire Marshal industrialized building decal after favorable plan review and inspection in accordance with §2713 and §2735 herein. The decal shall indicate acceptance of construction approved by the design plan review and inspected at a place other than at the site of installation.

B.1. The manufacturer or dealer shall file with the State Fire Marshal a decal disposition report no later than the tenth day of the following month for the preceding month's activity, until all decals in the possession of the manufacturer or dealer have been affixed and are accounted for. The disposition report shall be filed on a form provided by the State Fire Marshal and shall contain, as a minimum, the following information:

- a. the State Fire Marshal issued decal number for each unit manufactured or modified;
- b. the State Fire Marshal issued plan review number for the building or component;
- c. the identification number or serial number of the building or component;
- d. the date(s) of inspection; and
- e. the date of decal placement.

2. Inspection reports as required by §2715, §2717, or §2735 herein shall accompany each disposition report.

C. The control of the decals shall remain with the Office of State Fire Marshal and will be revoked by the State Fire Marshal in the event of violation of the conditions of approval. All such voided decals shall be returned to the Office of State Fire Marshal.

D. Decals shall be obtained utilizing a request form provided by the State Fire Marshal. One request form shall accompany each industrialized building plan review application required with each design submitted for review in accordance with §2713 herein and shall indicate the number of modules intended to be manufactured for the design submitted.

E. Upon design plan submittal approval, decals shall be provided as requested to the manufacturer or dealer. Additional decals may be ordered at any time after the initial plan review and approval has been completed. The plan review project number issued by the State Fire Marshal for a specific design shall be indicated on the decal(s) issued.

F. The third-party, the manufacturer's quality assurance person, or the State Fire Marshal shall affix the decals to the corresponding approved buildings only after inspection in accordance with §2715, §2717, or §2735 herein and determination that the building or component is in compliance with the approved design plan submittal and State Fire Marshal requirements.

G. Assigned decals are not transferable from one building to another or from one manufacturer or dealer to another manufacturer or dealer. Decals issued with each design plan submittal approval shall only be placed on the corresponding approved building or component. Decals not used within three years of issuance shall be returned to the State Fire Marshal.

H. After a decal has been affixed to a building or component, alterations may be made only in accordance with §2715 herein.

I. Decals shall not be affixed to an industrialized building, modular section or modular component which has deficiencies or does not conform to the approved plans. Violation of this section shall be subject to the penalties and fines indicated in §2729 herein.

J. Construction Site Building. Pursuant to R.S. 40:1730.63(B), buildings that are manufactured only for use as temporary construction site buildings shall be exempt from these decal provisions.

K. Industrialized Buildings Constructed Prior to January 1, 2007. Decals issued pursuant to §2717 herein shall have a unique color, shape, or markings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:1026 (May 2010).

**§2725. Transportation and Installation**

A. Manufacturer shall provide a transportation and installation booklet with each new building and component package. It shall include:

1. precautions and instructions for transportation of buildings and modules;
2. installation instructions;
3. notice that a site-specific plan review submittal is required to be submitted to the State Fire Marshal in accordance with §2713(H) of this part prior to obtaining a building permit from the applicable jurisdiction.
4. Notice that inspections by the State Fire Marshal are required prior to occupancy.

B. Dealer shall ensure that the transportation and installation booklet is provided with each building and component package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:1026 (May 2010).

**§2727. Reserved.**

**§2729. Removal of Decals, Penalties and Fines Imposed**

A. The State Fire Marshal, upon notice that a building, module, or modular component bearing a decal is in violation, shall furnish the building manufacturer or dealer in possession of the decal with a written notice of such violations.

1. The manufacturer or dealer shall respond within 21 days of such notice with a plan of correction. If modifications are required to bring the building or component into compliance, the provisions of §2715 herein shall apply.

2. The State Fire Marshal or his authorized agent, the manufacturer, or the dealer shall remove the decal from the building, module, or modular component found to be in violation within 21 days of the notice and shall return the decal to the State Fire Marshal.

3. Decals for previously issued units of the same design also determined to be in violation shall be deemed void and shall also be returned to the State Fire Marshal.

4. Applications for decals for new units by a manufacturer previously determined to be in violation will be denied until the plan of correction has been approved and compliance has been verified.

5. A fine not to exceed two hundred dollars per day for each day over 21 days may be levied until such decals have been returned to the State Fire Marshal, pursuant to 40:1563.4.

B. Any manufacturer, dealer, or third-party found to repetitively violate these rules, applicable laws or codes of the state of Louisiana shall be grounds for revoking registration of the manufacturer or dealer and recommendation to revoke registration of the responsible third-party. Three written notices of violations issued within a three year period to a manufacturer, dealer, or third-party shall be considered repetitive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2474 (November 2009), amended LR 36:1026 (May 2010).

**§2731. Reserved.**

**§2733. Reserved.**

**§2735. Inspections; Inspection Reports**

A. Responsibilities of third-party inspectors. Each third-party inspector retained by a registered manufacturer shall discharge the following responsibilities:

1. performing an initial plant certification inspection.
2. monitoring of the quality assurance procedures at the site of manufacture.
3. verifying that industrialized buildings, modules and modular components have been manufactured pursuant to State Fire Marshal approved building system documentation and in accordance with the approved quality assurance procedures.
4. authorizing the attachment of decals to such industrialized buildings, modules and modular components.
5. preparation of all reports as may be required by this Chapter.

B. Initial Plant Certification Inspection.

1. No decal shall be affixed to any industrialized building, module or modular component until the third-party inspector has completed an initial plant certification inspection of the manufacturer's facility, unless in accordance with §2735.F herein.

2. The initial plant certification inspection shall consist of a complete evaluation of the manufacturer's adherence to its quality assurance procedures and capability of producing an industrialized building, module or modular component, in accordance with the approved building system.

3. The third-party shall become familiar with every aspect of the manufacturer's approved building system and quality assurance procedures.

4. The third-party shall make a complete inspection of the manufacture of at least one industrialized building and any module or modular component pertaining to that particular building throughout all of the operation in the facility. If the first building inspected or any component pertaining to that particular unit fails to conform to the standards, additional buildings and component shall be similarly inspected until the inspector is satisfied that the

manufacturer is complying with the approved building system and the building code.

C. Plant Certification Report. If, on the basis of the initial plant certification inspection, the third-party determines that the manufacturer is in compliance with its approved quality assurance procedures, the third-party shall prepare and forward to the State Fire Marshal a certification report. The certification report shall include:

1. the name, address, and State Fire Marshal registration number of the manufacturing facility;
2. the name(s) of the third-party inspector(s) that approved the manufacturer's building system and quality assurance procedures, and the dates of approval;
3. the name(s) of the third-party inspector(s) that performed the initial plant certification inspection;
4. the serial numbers and the State Fire Marshal project number(s) assigned to the industrialized buildings, modules or modular components inspected;
5. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken;
6. the date of certification.

D.1. Inspection Reports. Third-party inspectors shall inspect construction throughout the manufacturing process and shall document their findings in writing to the State Fire Marshal. The inspection report, as a minimum, shall contain the following information:

- a. name of registered third-party inspector and council issued registration number;
- b. name of manufacturer and State Fire Marshal issued registration number;
- c. date of inspection;
- d. the State Fire Marshal issued plan review number of each building or component inspected;
- e. the identification number or serial number of each building or component inspected;
- f. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken.
- g. a statement indicating that the construction is in accordance with the stamped set of State Fire Marshal approved plans;
- h. a statement indicating that the actual inspection was performed at the manufacturer's facility as registered with the State Fire Marshal.

2. The inspecting agency shall keep a copy of all inspection reports for a minimum of five years.

E. Frequency of Inspections

1. After initial plant certification, the third-party inspector shall inspect:

- a. each industrialized building, module, or modular component in at least one stage of construction;
- b. every stage of construction during the course of each inspection visit to a manufacturing facility.

2. The third-party shall conduct unannounced inspections at the manufacturing site to review any aspects of the manufacturing process.

3. Nothing in this paragraph shall preclude a third-party from conducting inspections at a greater frequency than the minimum prescribed herein if, in the inspector's professional judgment, such action is necessary to discharge its responsibilities properly.

F. The State Fire Marshal may temporarily waive compliance with the quality assurance manual at the request



of the manufacturer. Upon the grant of such waiver, the manufacturer shall have each industrialized building and any module or modular component which it produces completely inspected during every stage of construction by a third-party inspector.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:2475 (November 2009), amended LR 36:1027 (May 2010).

**§2737. Fees**

A. In accordance with R.S. 40:1730.67, a manufacturer or dealer of industrialized buildings who conducts business in the state of Louisiana shall pay to the office of State Fire Marshal, code enforcement and building safety service fees based on the following schedule:

1. Manufacturer registration—\$350 per year, per each location.

2. Dealer registration—\$250 per year, per each location.

3. Plan Review

a. The fee for review of plans and specifications of new and renovated industrialized buildings, modules and modular components by the Office of State Fire Marshal shall be in accordance with the following schedule. The fee applies to the primary occupancy class of the building, but includes square footage for the total building, even where composed of separate occupancy classes, incidental uses or accessory uses. For each standard design, a separate fee will be applied to each primary occupancy class utilizing that design. Review fees for fire protection and all other systems are separate and shall be as indicated on the plan review fee computation schedules as provided by the State Fire Marshal.

Occupancy	Square Footage	Review Fee
HOUSES, RESIDENTIAL BOARD AND CARE FACILITIES Groups R-1, R-2, R-3, R-4, I-1	150,001 and over	= \$2,500.00 + .01/sqft over 150,000sqft
	0-3,000	= \$335.00
BUSINESS or MERCANTILE Groups M, B	3,001-10,000	= \$505.00
	10,001-30,000	= \$695.00
	30,001-50,000	= \$1,035.00
	50,001-150,000	= \$1,330.00
	150,001 and over	= \$1,430.00 + .01/sqft over 150,000sqft
INDUSTRIAL or STORAGE Groups F-1, F-2, S-1, S-2, U	0-10,000	= \$335.00
	10,001-20,000	= \$505.00
	20,001-50,000	= \$695.00
	50,001-100,000	= \$865.00
	100,001 and over	= \$945.00 + .01/sqft over 100,000sqft
HIGH HAZARD Groups H-1, H-2, H-3, H-4, H-5	0-2,000	= \$495.00
	2,001 and over	= \$495.00 + .30/sqft over 2,000sqft

4. Code Equivalency review—\$100 per review.

5. Inspections—\$40 per hour, including travel time.

6. Decal or insignia issuance:

a. Modules—\$ 00.07 per square foot of floor area, with a minimum fee of \$25.00.

b. Modular Components—\$ 00.02 per square foot of surface area, with a minimum fee of \$00.60.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 36:1028 (May 2010).

**§2739. Reserved.**

Jill Boudreaux  
Undersecretary

1005#054

**RULE**

**Department of Revenue  
Policy Services Division**

**Limited Local Sales Tax Exemption for Cancer and Related  
Chemotherapy Prescription Drugs  
(LAC 61:I.4401)**

Under the authority of R.S. 47:305(D)(4)(b) and (c), R.S. 47:337.2, R.S. 47:337.9(C)(17), and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4401 to provide with respect R.S. 47:305(D)(4)(b). This statute provides that the administration of prescription drugs used exclusively by the patient in the medical treatment of various diseases or injuries when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more, shall be a professional service.

Occupancy	Square Footage	Review Fee
ASSEMBLY Groups A-1, A-2, A-3, A-4, A-5	0 - 2500	= \$335.00
	2,501 - 4,500	= \$505.00
	4,501 - 10,000	= \$1,220.00
	10,001 - 50,000	= \$1,806.00
	50,001 - 100,000	= \$2,365.00
	100,001 and over	= \$2,515.00 + .01/sqft over 100,000sqft
EDUCATIONAL or DAYCARE Groups E, I-4	0 - 5,000	= \$335.00
	5,001 - 10,000	= \$505.00
	10,001 - 30,000	= \$740.00
	30,001 - 80,000	= \$1,330.00
	80,001 - 150,000	= \$1,920.00
150,001 and over	= \$2,020.00 + .01/sqft over 150,000sqft	
HEALTH CARE, INSTITUTIONAL, or DETENTION (Includes Limited Care/Assisted Living facilities) Groups I-2, I-3	0-2,000	= \$485.00
	2,001-5,000	= \$715.00
	5,001-10,000	= \$970.00
	10,001-20,000	= \$1,320.00
	20,001-30,000	= \$1,420.00
	30,001-50,000	= \$2,400.00
	50,001-100,000	= \$2,990.00
100,001 and over	= \$3,190.00 + .02/sqft over 100,000sqft	
HOTELS, DORMITORIES, APARTMENTS, LODGING or ROOMING	0-2,500	= \$335.00
	2,501-10,000	= \$505.00
	10,001-30,000	= \$1,220.00
	30,001-80,000	= \$1,810.00
	80,001-150,000	= \$2,400.00

These amendments are related to a "common sales tax law," as contemplated by R.S. 47:337.2(C)(1)(b). Input into the drafting of this Rule was received from the Board of Directors of the Louisiana Association of Tax Administrators (LATA), as required by R.S. 47:337.2(4).

Although R.S. 47:305(D)(4)(b) applies to both state sales and use taxes and to the sales and use taxes of political subdivisions of the state, this statute providing with respect to the taxation of chemotherapy drugs will primarily affect local sales and use taxation. R.S. 47:305(D)(1)(j) provides an exemption on the sale, use, distribution, or the storage for use or consumption of drugs prescribed by a physician or dentist. The exemption under R.S. 47:305(D)(1)(j) applies solely for purposes of state sales and use tax, and under R.S. 47:305(D)(4)(a) does not apply to sales and use taxes imposed by any school board, municipality or other local taxing authority.

Chemotherapy drugs are already fully exempt from state sales and use taxes when prescribed by physicians, regardless of whether administered in a physician's office or elsewhere. These amendments discuss the limited conditions in which local sales and use the taxes will not apply to sales to patients of chemotherapy drugs.

#### **Title 61**

### **REVENUE AND TAXATION**

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

#### **Chapter 44. Sales and Use Tax Exemptions**

#### **§4401. Various Exemptions From the Tax**

##### **A. - G.1. ...**

2.a. All of the exemptions provided by R.S. 47:305(D), except for the exemptions on food and drugs, orthotic and prosthetic devices, and patient aids prescribed by physicians or licensed chiropractors for personal consumption or use apply to state and local sales or use tax. The exemptions for food and drugs, orthotic and prosthetic devices, and patient aids prescribed by physicians or licensed chiropractors apply only to state sales or use tax.

b.i. R.S. 47:305D(4)(b) provides a limited exemption from local sales and/or use taxes on the procurement of prescription chemotherapy drugs administered to the patient for treatment of cancer and also includes prescription drugs related to chemotherapy treatment administered in connection with the treatment of cancer patients.

ii. In order for these prescription drugs to be eligible for exemption, they must be procured by a physician who specializes in the diagnosis and treatment of cancers and administered by the physician, nurse, or other health care professional in the physician's office where patients are not kept as bed patients for twenty-four hours or more. It is the intent of this limited exemption to apply only to medications that have been prescribed by and administered in the physician's office at the time medical services are delivered. The issuance of a prescription for personal use of similar drugs away from the physician's office will be fully taxable at the local level. This exemption shall not apply to medical supplies or equipment used to administer any treatment to patients.

iii. Chemotherapy drugs are those drugs that kill or inhibit the growth of cancerous cells or tumors and have been approved by the Food and Drug Administration for use in the treatment of cancers. Chemotherapy drugs may be

used individually or in combination to achieve optimum results. Language dealing with "related chemotherapy prescription drugs" (emphasis added) may present difficulties in interpretation and therefore, this regulation is being adopted to establish certain guidelines to govern this limited exemption. The treatment of diagnosed cancer with prescribed drugs and chemotherapy relates to professional medical services delivered to the patient in a physician's office where patients are not regularly kept as bed patients for periods beyond 24 hours. These prescribed drugs must be administered by the physician, his/her nurse, or other health care professional orally or intravenously during the treatment. These exempt prescribed drugs would include medications prescribed to treat the side effects of chemotherapy, such as nausea and blood-related side effects. Such prescription drugs must be medically necessary, prescribed as part of an established protocol and appropriate in light of clinical standards of medical practice. Procurement of these and similar drugs by hospitals, hospital clinics, and other facilities that do not qualify as the physician's office shall not be exempt from local taxation under this exemption. Purchases of these and similar drugs that are prescribed for treatment in medical conditions other than cancer would also not be exempt under this statute from local taxation. Local taxing authorities have developed a specific Local Exemption Certificate which is to be acquired and employed by those persons who are found to be eligible for this exemption. Each local tax administrator or collector is authorized to issue a local exemption certificate that has been approved by the Board of Directors of the Louisiana Association of Tax Administrators (LATA) upon application found suitable by said collector.

##### **H. - J. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:305.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:1520 (August 2003), LR 30:2864 (December 2004), LR 36:1029 (May 2010).

Raymond E. Tangney  
Senior Policy Consultant

1005#032

#### **RULE**

#### **Department of Social Services Office of Community Services**

#### **Residential Licensing (LAC 67:V.6709)**

Editor's Note: Section 6709 of this rule is being repromulgated in its entirety to correct a citation error. The original Rule may be viewed in the April 20, 2010 *Louisiana Register* on pages 784-831.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Community Services, has promulgated rules in the *Louisiana Administrative Code (LAC)*, Title 67, Part V, Subpart 8, Residential Licensing, to comply with Acts 388 and 400 of the 2009 Regular Session of the Louisiana Legislature.

**Title 67**  
**SOCIAL SERVICES**  
**Part V. Community Services**  
**Subpart 8. Residential Licensing**

**Chapter 67. Maternity Home**

**§6709. Organization and Administration**

NOTE: This Section has been moved from LAC 67:I.1709.

**A. Purpose**

1. There shall be a written statement specifying the purpose of the maternity home. This statement shall be one which has been adopted by the governing body. All functions of the maternity home shall be stated in its charter, or articles, when the home operates under one of these.

2. It shall be clear from the practices of the home that the purposes for which it was declared to be established are being met.

3. The governing body shall adopt a supplementary statement of any new function which is added to the program of the maternity home.

**B. Governing Body**

1. There shall be a responsible governing body which shall be of the following:

- a. a board of local citizens elected or appointed for that purpose;
- b. a religious, fraternal, charitable organization, or veteran's organization; or
- c. a public authority.

2. This governing body shall exercise sufficient authority so that it can reasonably be held responsible for the practices within the maternity home.

3. The governing body shall have the power to appoint or dismiss the executive director and shall carry responsibility for the direction of the program.

4. If the governing body is a national or regional organization and has a local advisory board or committee, minutes of the local group setting forth changes in policies and administrative decisions affecting the local operation shall be made available to the licensing authority.

**C. Administrative Responsibilities**

1. There shall be one person employed by the governing body to serve as superintendent or executive director. This person shall be responsible for the administration of the maternity home.

2. The agency executive director or superintendent shall be responsible for the direction and supervision of all personnel employed in the maternity home.

3. The duties, responsibilities, and authority of each staff member shall be clearly defined specifying:

- a. where responsibilities, and authority rest for each of his or her functions within the maternity home;
- b. that no responsibility or authority shall conflict with another.

4. The duties, responsibilities, and authority of each board committee working directly with staff shall be clearly defined.

5. The following personnel practices shall be observed:

- a. the Division of Licensing and Certification shall be notified promptly when there is a change of executive director within the period covered by a license, this notification shall include a statement of the qualifications of the new employee;

- b. only such staff members who are qualified for the duties assigned by virtue of ability, health, age, emotional stability, education, and experience shall be employed and retained in employment;

- c. a written statement shall be given to the employee at the time of employment setting forth the duties that will be assigned to him, to whom he is directly responsible, and conditions of employment, including official responsibilities, salary, hours of work, sick leave, retirement benefits, vacations, and the notice he will be expected to give or receive in case of resignation or release;

- d. no person shall be required to do work in contravention of the labor laws of the state of Louisiana or the United States;

- e. the governing body of the maternity home shall be encouraged to participate in a retirement plan for the employees, such coverage may be the home's own retirement plan or Retirement Survivors' and Disability Insurance.

**D. Resources**

1. The maternity home shall prepare an annual budget adequate to finance the program. The budget shall be prepared for the maternity home's fiscal year and shall clearly indicate all sources of income as well as anticipated expenditures.

2. The maternity home partially dependent on board payments to carry out its functions shall have sufficient funds available to continue care until other plans can be made for residents should contributions cease.

3. The governing body shall not assign to the personnel of the maternity home the responsibility for fund raising.

4. Soliciting funds shall be the responsibility of the governing body or of a special officer appointed for this purpose.

**E. Auditing of Accounts**

1. Accounts of the maternity home shall be audited annually by an independent certified public accountant or by a public authority.

**F. Personnel Plan**

1. An executive director shall be employed whose qualifications include a basic year's training in an accredited school of social work, or three years of successful experience in a recognized social agency, or five years successful experience in closely allied fields such as nursing, education, or ministry.

2. A caseworker shall be employed who meets the following qualifications: completion of one basic year in an accredited school of social work and one year of experience in a family or children's agency. The experience may be waived if the facility employs a casework supervisor with the same qualifications as the supervisor in a child placing agency.

3. A case aide or aides may be employed with the following qualifications: a B.A. or B.S. degree in social work or a related field. This person shall be closely supervised by the casework supervisor.

4. A full-time resident staff person shall be employed when the superintendent does not live at the home. The resident staff person's qualifications shall include:

- a. a high school education;

b. at least two years successful experience in allied fields such as practical nursing, household management, housemother experience;

c. an ability to accept and work with expectant mothers;

d. an ability to supervise assistant resident staff persons; and

e. be over the age of 21.

5. Assistant staff person, with the following qualifications, shall be employed when the population requires it:

a. a high school education;

b. an ability to accept and work with expectant mothers; and

c. be over the age of 21.

6. There shall be on call at all times an employee who is a graduate nurse or practical nurse.

a. The graduate nurse must have a current license to practice nursing in the state of Louisiana.

b. The practical nurse must have a current license to practice in the state of Louisiana.

7. Sufficient clerical staff shall be employed to keep correspondence, records, bookkeeping system, and files current and in good order. Expectant mothers receiving care in the maternity home shall not be used in this capacity. Clerical staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

8. Sufficient domestic staff shall be employed so that the major and heavy household duties are not assigned to the expectant mothers or become the duties of the resident staff person. Domestic staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

9. All employees living or working within an institution shall be required to obtain a written statement from a physician certifying that the employee is free from venereal disease, tuberculosis, and other infectious or contagious disease. This statement shall be obtained prior to employment, or immediately thereafter and annually during employment.

10. Resident staff shall be provided with quarters which insure reasonable privacy and rest during hours off duty. In addition, provision shall be made for personal belongings and bathing and toilet facilities separate from those used by expectant mothers.

11. Foster homes which are used in lieu of a congregate home shall meet the standards outlined for foster homes in "Minimum Requirements for License of Child Placing Agencies", published by the Division of Licensing and Certification.

#### G. Staff

1. There shall be on duty at all times one adult serving in the capacity of resident staff. In addition, an alternate person shall be on call. There shall be one adult on the staff designated as the assistant to the resident staff who will also serve as relief resident staff.

2. In small maternity homes, it may be necessary for one employee to serve in more than one capacity. When this practice is followed, the employee shall be well qualified by training and experience for the different duties assigned.

H. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1571 (August 2009), amended LR 36:330 (February 2010), amended LR 36:799 (April 2010), repromulgated LR 36:1030 (May 2010).

Kristy H. Nichols  
Secretary

1005#065

### RULE

#### Department of Social Services Office of Community Services

#### State Central Registry—Residential Licensing (LAC 67:V.6955)

Editor's Note: Paragraphs F and G in Section 6955 of this Rule are being repromulgated to correct a citation error. The original Rule may be viewed in the April 20, 2010 *Louisiana Register* on pages 838-844.

The Department of Social Services, Office of Community Services, has adopted the Louisiana Administrative Code 67:V, Subpart 3, Child Protective Services, Chapter 11; and, Subpart 8, Residential Licensing, Chapters 65, 67, 69 and 71 effective January 1, 2010 pursuant to Act 903 of the 1997 Regular Session of the Louisiana Legislature; Act 593 of the 1999 Regular Session of the Louisiana Legislature; Act 567 of the 2003 Regular Session of the Louisiana Legislature; Acts 394 and 580 of the 2006 Regular Session of the Louisiana Legislature; and, Acts 47 and 388 of the 2009 Regular Session of the Louisiana Legislature.

The content of Subpart 3, Child Protective Services, Chapter 11, is substantially amended and reorganized. It affects the maintenance and release of records on investigations with justified/valid findings and in limited circumstances, inconclusive determinations on the state central registry; and, the maintenance of records for other investigation determinations by the Office of Community Services. The amendments to Subpart 8, Residential

Licensing, Chapters 65, 67, 69 and 71 prohibits any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department from working in the facility if the individual's name is recorded on the state central registry for a justified/valid finding of abuse or neglect, unless the Risk Evaluation Panel determines that the individual does not pose a risk to children or as permitted as a result of the appeal process.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Office of Community Services**

#### **Subpart 3. Child Protective Services**

#### **Chapter 69. Child Residential Care—Class B**

#### **§6955. Procedures**

A. - E.5. ...

F. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such child residential care home.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a

corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

G. Conditions for Owners, Operators, Employees, and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child residential facility licensed by the Department of Social Services is prohibited from working in a child residential facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified/valid finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by, or volunteering in a child residential facility licensed by the department prior to January 1, 2010 shall be required to complete a SCR disclosure form on or before February 1, 2010. This information must be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified/valid determination of child abuse/neglect.

a. The owner, operator, current or prospective employee, or volunteer of a child residential facility shall complete, sign and date the SCR disclosure form. The current or prospective employee or volunteer shall submit the disclosure form to the owner or operator of the facility.

The owner or operator shall also be required to provide documentation of his or her SCR disclosure form.

b. If a prospective employee or volunteer discloses that his or her name is currently recorded as a perpetrator on the SCR, the child residential facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the SCR disclosure and the child residential facility representative/prospective employer will provide the prospective employee/volunteer, with the request for risk panel evaluation form.

c. Any current employee hired before January 1, 2010, that discloses, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect will have 10 calendar days of the date of disclosure to request a risk assessment evaluation in accordance with LAC 67:I.305 or must be immediately terminated. As a condition of continued employment the employee shall be directly supervised by another staff person, who has not disclosed that their name appears with a justified/valid finding on the SCR. Under no circumstances may the staff person with the justified/valid finding be left alone and unsupervised with the residents pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the staff member may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses to appeal the finding, the employee must continue to have direct supervision by a staff person who has not disclosed that they have a justified/valid finding on the SCR at all times until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be immediately terminated.

d. Individuals currently providing volunteer services on January 1, 2010 who disclose, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect must be immediately discharged from volunteer duties at the child residential facility until a Risk Evaluation Panel disposition or a Division of Administrative Law ruling that the individual does not pose a risk to children.

e. SCR disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Office of Community Services Residential Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the facility.

2. Any information received or knowledge acquired that a current owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded

as a perpetrator with a justified/valid determination of abuse or neglect shall be reported in writing to the child residential licensing program manager at the Department of Social Services, Office of Community Services, Residential Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

3. Any SCR disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

4. Violations of any of the provisions of this section will result in licensing enforcement actions up to and including revocation of the license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010).

Kristy H. Nichols  
Secretary

1005#064

## RULE

### Department of Transportation and Development Professional Engineering and Land Surveying Board

Re-Examinations, Experience, and Licensure Status  
(LAC 46:LXI.1315, 1501, and 2103)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681, et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.Chapters 1 through 33.

These are primarily technical revisions of existing rules under which LAPELS operates. The revision to §1315 limits applicants to ten examination attempts on each examination. The revision to §1501 removes the requirement that certain comity applicants must be a resident of the state in which they were originally examined for at least one year prior to that examination. The revision to §2103 allows certain licensees who are qualified for retired status to be granted a waiver of their biennial licensure renewal fee.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Chapter 13. Examinations**

**§1315. Re-Examinations**

A. ...

B. After an individual has failed an examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed an examination in any and all jurisdictions five or more times, following each successive failed examination he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying. After an individual has failed an examination in any and all jurisdictions for the tenth time, he/she is no longer eligible to retake the examination.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:1034 (May 2010).

**Chapter 15. Experience**

**§1501. Recognition of Experience**

A. ...

B. In considering applications for licensure by comity, the board may recognize examinations passed before the applicant had accrued sufficient qualifying experience according to Louisiana experience requirements in effect at the time, if:

1. the examination was passed in accordance with the laws and regulations in effect at the time in the jurisdiction in which the applicant was examined; and

2. the experience deficiency according to Louisiana experience requirements has been satisfied as of the date of the application to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 36:1034 (May 2010).

**Chapter 21. Certificates of Licensure and Certification of Individuals or Firms**

**§2103. Licensure Status**

\* \* \*

*Retired Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal

form. To qualify for the *retired status*, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. Unless the licensee is granted a waiver by the board, the renewal fee for the *retired status* shall be one-half of the current renewal fee for the *active status*. A licensee qualified for the *retired status* may be granted a waiver of this renewal fee if the licensee is at least 70 years of age, has been a licensee of the board for at least 35 years continuously, has never been subject to disciplinary action in any jurisdiction, has never committed any of the offenses described in R.S. 37:698(A)(3), (4) or (5), and is of good character and reputation. A licensee in a *retired status* can represent himself/herself to the public as a *P.E. Retired*, or a *P.L.S. Retired*, but cannot otherwise practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1719 (August 2004), LR 36:1034 (May 2010).

Donna D. Sentell  
Executive Secretary

1005#053

**RULE**

**Department of Wildlife and Fisheries**  
**Office of the Secretary**

Shrimp Packaging Regulations (LAC 76:VII.373)

The Office of the Secretary of the Department of Wildlife and Fisheries does hereby establish standards for packaging of shrimp in Louisiana for wholesale and retail sale.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**§373. Shrimp Packaging Regulations**

A. In accordance with the provisions of R.S. 56:578.10 the following provisions shall establish the standards for packaging of shrimp in, or sold in Louisiana for wholesale and retail sale.

B. Definitions

*Gulf of Mexico Packaging*—any package or container bearing the words “Gulf of Mexico” or “Gulf USA Shrimp,” or that any way represents that the shrimp are a product of the Gulf of Mexico.

*Louisiana Packaging*—any package or container bearing the word “Louisiana” or “Louisiana Shrimp,” or that any way represents the brand name “Louisiana” or that the shrimp is a product of Louisiana.

*Shrimp*—any fresh or frozen raw shrimp, either, whole, headless, or peeled of the species, white shrimp or "common saltwater shrimp" (*Litopenaeus setiferus*), also called the "lake shrimp"; the brown shrimp (*Farfantepenaeus aztecus*); the pink shrimp (*Farfantepenaeus duorarum*); or the "sea bob" (*Xiphopeneus kroyeri*), also called "six barbes."

*United States Packaging*—any package or container bearing the word “United States,” or “USA,” or “Product of USA,” or that any way represents that the shrimp are a product of the United States.

C. No person shall knowingly possess, package, distribute, label, broker, sell, purchase, or cause to be packaged, distributed, labeled, brokered, or sold any shrimp packaged in Louisiana packaging which were not taken, harvested, or landed in Louisiana.

D. No person shall knowingly possess, package, distribute, label, broker, sell, purchase, or cause to be packaged, distributed, labeled, brokered, or sold any shrimp packaged in Gulf of Mexico packaging which were not taken, harvested or landed in the Gulf of Mexico or adjoining states of Texas, Louisiana, Mississippi, Alabama, or Florida.

E. No person shall knowingly possess, package, distribute, label, broker, sell, purchase, or cause to be

packaged, distributed, labeled, brokered, or sold any shrimp packaged in United States packaging which were not taken, harvested, or landed in the United States. Shrimp landed in the United States shall not mean shrimp imported into the United States from any country other than the United States.

F. The penalty for violating any provision of this Section shall constitute a class two violation for each violation. The provisions of this Section shall not supersede any other state or federal requirements for packaging or labeling shrimp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.10.

HISTORICAL NOTE: Promulgated in accordance with the Department of Wildlife and Fisheries, Office of the Secretary, LR 36:1034 (May 2010).

Robert J. Barham  
Secretary

1001#050



# Notices of Intent

## NOTICE OF INTENT

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

2, 4-D and ULV Malathion/Pyrethroid (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and with the enabling statute, R.S. 3:3203, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, acting for the Commissioner of Agriculture and Forestry, proposes amendments to regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D and adoption of regulations governing the aerial application of an ultra low volume insecticides to be applied to cotton fields infested with insects.

2, 4-D and products containing 2, 4-D are an efficient and effective pesticide in the control of certain pests in agricultural crops. Restrictions on the application of 2, 4-D is necessary to prevent drift on to non-target areas and harm to other crops and vegetation. The current restrictions in the permanent rules and regulations do not allow for the use of 2, 4-D and products containing 2, 4-D on rice crops grown in certain areas of Allen and Evangeline Parish. The current restriction subjects the rice crops in these areas to crop pests which can destroy the rice crops in those areas or severely limit the amount of rice harvested. Such destruction or reduction of the rice crops in those areas will imperil the livelihood of the rice farmers producing those crops and adversely affect the agricultural economies of those parishes and the welfare of the citizens of those parishes.

The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) of Malathion and a ULV pyrethroid application (tank mixed) will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana agricultural producers.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Application of Pesticides

#### §143. Restrictions on Application of Certain Pesticides

##### A. - O.2....

3. 2, 4-D or products containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually from April 1 through April 30 in the following

parishes: Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

b. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators from May 1 through July 31, in the areas listed in subparagraph a. of this paragraph, except as follows:

i. A written request to make a permitted commercial application shall be made to, and specific written authorization to make the application obtained from, the assistant commissioner of the office of agricultural and environmental sciences or, in his absence, the commissioner of agriculture and forestry.

ii. Permitted commercial applications of 2, 4-D or products containing 2, 4-D shall be limited to Allen Parish (in the area south of Deer Farm Road and Carrier Road and north of U.S. Highway 190 between U.S. Highway 165 and Castor Creek) and Evangeline Parish (in the area south of LA Highway 104, north of US Highway 190 and west of LA Highway 13).

##### 4. - 5.b....

P. Ultra Low Volume (ULV) Malathion and ULV Pyrethroid Applications; Restrictions

1. An ULV Malathion and a ULV pyrethroid insecticide (tank mixed) may be applied to control plant bugs in cotton only between June 1 and September 30 subject to the following restrictions.

a. Applications shall be made at no less than seven day intervals at an application rate not to exceed the individual pesticide product labels and with no other dilutions or tank mixes.

b. Each application shall be reported, in writing and within 24 hours of the application, to the appropriate Boll Weevil Eradication Program District Office by the commercial applicator, farmer, agricultural consultant or owner/operator.

c. The report shall include the names and addresses of the commercial applicator, the farmer, the agricultural consultant (if appropriate), and the owner/operator; the department's applicator number; the field name or number; the number of acres treated; the pesticide product rates; the WPS re-entry interval; the EPA registration number and total amount of each pesticide applied; the application date and time; and the wind speed and direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR

24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:

### Family Impact Statement

Family Impact Statement: It is anticipated that the proposed Rule will have no significant effect on the: (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

### Small Business Statement

It is anticipated that the proposed Rule will not 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.

### Public Comments

Interested persons may submit written comments on the proposed rules to David Fields at P. O. Box 3596, Baton Rouge, LA 70806 or 5825 Florida Blvd., Baton Rouge, LA 70806. Written comments received after 4:00 p.m. on Monday, June 28, 2010 shall not be considered. No preamble regarding these rules is available.

Mike Strain DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: 2, 4-d and ULV Malathion/Pyrethroid

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental expenditures.

The proposed action would change the start date for applications of 2, 4-D in certain areas from April 3 to April 1 and would add an area in Allen Parish in which permitted applications may be made between May 1 and August 1 of each year. The ULV Malathion/Pyrethroid rule authorizes the application of an ultra low volume mixture of the two pesticides during certain times of the year and with certain restrictions to control plant bugs in cotton.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental revenues.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Due to unknown variables including the number of farmers using pesticides and the number of acres impacted, the cost or economic benefits of directly affected persons or nongovernmental groups is indeterminable. However, the proposed rule changes seek to benefit rice farmers, by not completely limiting the application of 2, 4D, and benefit cotton farmers, by limiting the application of 2, 4D in specific parishes during certain times of the year in order to protect the cotton plants from 2, 4D drift.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
1005#066

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,  
and State Accountability System  
(LAC 28:LXXXIII.Chapters 3 - 9, 33, and 37 - 45)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: Chapters 3, 4, 5, 7, 9, 33, 37, 39, 43, and 45.

Proposed changes in Chapter 3 provide clarification of the composition of School Performance Scores for schools that have not met accountability standards.

Proposed changes in Chapter 4 provide clarification for assessment, attendance, and dropout Index Calculations, particularly defining dropout.

Proposed changes in Chapter 5 provide clarification about grade levels at which students take state assessments, combination of regular and alternate assessment for LAA 2 students, deletion of School Performance Score sharing scenario, with clarification about School Performance Score pairing scenarios.

Proposed changes in Chapter 7 provide clarification of the terms and limitations for the combination of LAA 1 and LAA 2 proficiency.

Proposed changes in Chapter 9 provide clarification about School Performance Score improvement.

Proposed changes in Chapter 33 provide detail of how to outline procedures for the placement of new schools into accountability and the reestablishment of accountability for reconfigured schools.

Proposed changes in Chapter 37 provide clarification about lab and charter school accountability.

Proposed changes in Chapter 39 provide clarification of assessment taken by students with disabilities.

Proposed changes in Chapter 43 provide clarification of LAA 1 proficiency limitations.

Proposed changes in Chapter 45 establish a prescribed time limit for accountability waivers for schools impacted by disasters and make reference to their re-entry into accountability as new or reconfigured schools after the expiration of the waiver.

### Title 28

### EDUCATION

#### Part LXXXIII. Bulletin 111--The Louisiana School, District, and State Accountability System

#### Chapter 3. School Performance Score Component

#### §301. Composition of School Performance Scores

A. ...

B. Each school shall receive its school performance scores under one site code regardless of its grade structure.

C. Preliminary accountability results shall include both preliminary school performance scores for all schools labeled academically unacceptable in the current and prior year and those schools on the academic watch list, and the subgroup component analysis for those schools in subgroup component failure in the current or prior year, or who failed the subgroup component the prior year. Final accountability results shall be issued during the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. Beginning in 2008, the preliminary accountability results shall include those schools identified as:

- a. failing the SPS component based on the current year Baseline SPS; or
- b. failing the SPS component based on the prior year Baseline SPS; or
- c. being academically unacceptable (any level) the prior academic year; or
- d. failing the subgroup component based on prior spring test results;
- e. exiting any level of Subgroup Component Failure in the current year.

2. - 3. Repealed

D. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels and rewards status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine performance labels, academic assistance levels and academically unacceptable schools.

4. For K-8 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and attendance and dropout data collected in the academic years 2003-2004 and 2004-2005.

2007 (and beyond) Baseline SPS K-8 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (90% K-8)	Grades 3-8
Attendance (10% K-6; 5% 7-8)	Grades K-8
Dropout Rate (5% 7-8)	Grades 7-8

5. For 9-12 schools in 2007, the Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. 9-12 schools that were not labeled Academically Unacceptable in 2006 and whose 2007 baseline SPS are below 60, are labeled Academically Unacceptable in 2007, but if their 2007 Growth SPS are 60 or greater shall have SI requirements waived.

6. For 9-12 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and graduation data collected in the academic year 2005-2006.

2007 (and beyond) Baseline SPS 9-12 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (70%)	Grades 9-11
Cohort Graduation Index (30%)	Grade 12

E. In 2008 and beyond, schools will continue to receive two SPS.

1. A Growth SPS will be calculated using the indicators and weighting from the tables above (Paragraphs I.4 and I.6).

2. The Growth SPS will continue to determine growth labels and rewards status for the SPS component.

a. The Growth SPS will include test data from the most recent spring administration (in the prior academic year) and attendance/dropout or graduation data from two years prior.

3. A Baseline SPS will continue to determine Performance Labels and Academically Unacceptable schools.

4. The indicators and weighting for both SPS will consist of that used for the 2007 Baseline SPS.

a. The Baseline SPS will include test data from the two most recent spring administrations and attendance/dropout or graduation data from two and three years prior.

F. - L. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:

### §303. Calculating the SPS Component

A. ...

B. Beginning in 2006, the K-6 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(87.8 * 90\%) + (110.9 * 10\%)] = 90.1$			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-6)	87.8	90%	79.0
Attendance (K-6)	110.9	10%	11.1
			SPS = 90.1

1. Any K-6 school with at least one grade that is assessed (3-6) will receive an SPS based only on its own student data.

2. Any configuration that has no assessed grades will be paired/shared as described in §521.

C. Beginning in 2006, the K-8 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example; $[(87.8 * 90\%) + (95.2 * 5\%) + (102.7 * 5\%)] = 88.9$			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-8)	87.8	90%	79.0
Attendance (K-8)	95.2	5%	4.8
Dropout (7-8)	102.7	5%	5.1
			SPS = 88.9

1. Any K-8 school with at least one grade that is assessed (3-8) will receive an SPS based only on its own student data.

D. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels and rewards status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine performance labels, academic assistance levels and academically unacceptable schools.

4. For K-8 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and attendance and dropout data collected in the academic years 2003-2004 and 2004-2005.

2007 (and beyond) Baseline SPS K-8 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (90% K-8)	Grades 3-8
Attendance (10% K-6; 5% 7-8)	Grades K-8
Dropout Rate (5% 7-8)	Grades 7-8

5. For 9-12 schools in 2007, the Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. 9-12 schools that were not labeled Academically Unacceptable in 2006 and whose 2007 baseline SPS are below 60, are labeled Academically Unacceptable in 2007, but if their 2007 Growth SPS are 60 or greater shall have SI requirements waived.

6. For 9-12 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and graduation data collected in the academic year 2005-2006.

2007 (and beyond) Baseline SPS 9-12 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (70%)	Grades 9-11
Cohort Graduation Index (30%)	Grade 12

E. In 2008 and beyond, schools will continue to receive two SPS.

1. A Growth SPS will be calculated using the indicators and weighting from the tables above (Paragraphs I.4 and I.6).

2. The Growth SPS will continue to determine growth labels and rewards status for the SPS component.

a. The Growth SPS will include test data from the most recent spring administration (in the prior academic year) and attendance/dropout or graduation data from two years prior.

3. A Baseline SPS will continue to determine Performance Labels and Academically Unacceptable schools.

4. The indicators and weighting for both SPS will consist of that used for the 2007 Baseline SPS.

a. The Baseline SPS will include test data from the two most recent spring administrations and

attendance/dropout or graduation data from two and three years prior.

F. - K. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2738 (December 2003), amended LR 31:763 (April 2004), LR 32:1020 (June 2006), LR 32:2034 (November 2006), LR 36:

### §307. Incentive Points

A. - C. ...

D. Students repeating the GEE ELA, math, science, and/or social studies tests shall not earn incentive points.

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:1021 (June 2006), LR 33:252 (February 2007), LR 36:

### §313. Formula for Calculating a CRT Index for a Combination School

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), repealed LR 36:

### Chapter 4. Assessment, Attendance, and Dropout Index Calculations

#### §405. Calculating a K-8 Assessment Index

A. For all grades 3 - 8 use the values from the following table.

iLEAP, LEAP and GEE Index Points	
Label	Subject-Test Index Points
Advanced =	200
Mastery (Exceeding the Standard) =	150
Basic (Meeting the Standard) =	100
Approaching Basic (Approaching the Standard) =	50
Unsatisfactory =	0

1. Add any incentive points earned by repeating 4th or 8th graders to their subject-test index points (a student scoring Basic in 06 in ELA, who scored Unsatisfactory in 05 in ELA, is recorded as earning 150 points in 06 in ELA.

B. Weight each subject-test index score by the corresponding value from the table below.

Unit Weights for K-8 Assessment Index				
Grade	ELA	Math	Science	Social Studies
3rd	2	1	1/2	1/2
4th	2	2	1	1
5th	1	1	1	1
6th	1	1	1	1
7th	1	1	1	1
8th	2	2	1	1

C. Sum all weighted subject-test index scores.

D. Sum all weights applied to subject-test index scores from the table above (in Subsection B).

E. Weight the sum of all summer school incentive points (from the prior summer as described in §307) by 2.

F. Add the value from Step (Subsection) E to the value from Step (Subsection) C.

G. Divide the sum from Step (Subsection) F by the sum from Step (Subsection) D. This quotient is the K-8 Assessment Index.

H. Example of K-8 Assessment Index Calculation

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
3	ELA	100		2	200
3	MTH	50		1	50
3	SCI	50		0.5	25
3	SS	100		0.5	50
4	ELA	100	50	2	300
4	MTH	50		2	100
4	SCI	50	50	1	100
4	SS	50		1	50
5	ELA	150		1	150
5	MTH	150		1	150
5	SCI	100		1	100
5	SS	150		1	150
6	ELA	100		1	100
6	MTH	100		1	100
6	SCI	100		1	100
6	SS	50		1	50
7	ELA	0		1	0
7	MTH	50		1	50
7	SCI	0		1	0
7	SS	0		1	0
8	ELA	150		2	300
8	MTH	100		2	200
8	SCI	100		1	100
8	SS	150		1	150
<b>Sums</b>				28	2575
<b>K-8 Assessment Index</b>				2575 ÷ 28 = 92.0	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:

#### §409. Calculating a 9-12 Assessment Index

A. For all grades 9 - 11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 4.0 percent (100.0% - 9th grade DO rate + 4.0%).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%)].

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent and the 11th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%) x (100.0% - 11th grade DO rate + 4.0%)].

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

Unit Weights for 9-12 Assessment Index					
Grade	ELA	Math	Science	Social Studies	Total
9th Grade	1	1			2
10th Grade	1.25	1.25			2.5
11th Grade			1.25	1.25	2.5

D. Sum all weighted values from step C, above.

E. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). This quotient is the 9-12 Assessment Index.

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 percent.

Grade	Subject	Subject-Test Index Score	Dropout Adjustment	Adjusted Subject-Test Index Score	Unit Weight	Weighted Adjusted Subject-Test Index Score
9	ELA	100	.990	99.0	1	99.0
9	MTH	50	.990	49.5	1	49.5
10	ELA	100	1.010	101.0	1.25	126.3
10	MTH	150	1.010	151.5	1.25	189.4
11	SCI	50	1.040	52.0	1.25	65.0
11	SS	50	1.040	52.0	1.25	65.0
<b>Sums</b>					7	594.2
<b>9-12 Assessment Index</b>				594.2 ÷ 7 = 84.9		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:

#### §411. Attendance Index Calculations

A. An attendance index score shall be calculated for each school. The attendance index shall be calculated using the prior two years' average attendance rates as compared to the state's goal.

B. K-8 school attendance index formula= (16.667 \*ATT) - 1483.4.

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2740 (December 2003), amended LR 36:

#### §413. Dropout Index Calculations

A. ...

B. The National Center for Educational Statistics "event rate" definition of *dropout* shall be adhered to, but in rare instances, with BESE approval, the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

C. - D. ...

E. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 36:

## **Chapter 5. Inclusion in Accountability**

### **§511. Attendance Index Calculations**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2740 (December 2003), repealed LR 36:

### **§513. Dropout Index Calculations**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), repealed LR 36:

### **§514. Subgroup Performance Scores (GPS)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1445 (July 2004), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), repealed LR 36:

### **§515. State Assessments and Accountability**

A. Louisiana students in grades 3 through 11 will participate in only one of the following state assessments on an annual basis:

1. - 2. ...
3. iLEAP, or;
4. LEAP Alternate Assessment Level 1 (LAA 1), or;
5. LEAP Alternate Assessment Level 2 (LAA 2).

a. Some LAA 2 students will participate in a combination of regular assessment (LEAP, iLEAP, GEE) and LAA 2 if the IEP requires this.

b. These students can take only 1 test in each subject at any single test administration, e.g., LAA 2 in ELA and GEE in mathematics, science, and social studies.

B. All LEP students shall take the English Language Development Assessment (ELDA) annually as well as the appropriate state assessment for their enrolled grade.

C. GEE 21 scores for repeaters (in any subject) shall not be included in high school SPS calculations.

D. High school students who meet LEAP alternate assessment participation criteria shall take the LAA at the 9th, 10th, and 11th grade beginning in spring 2004.

E. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

F. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the School Performance Score (SPS) or Subgroup Performance Score (GPS).

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:

### **§519. Inclusion of Schools**

A. Beginning in 2006 for the Baseline SPS, all K-8 schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

B. Beginning in 2007 for the Growth SPS, all K-8 schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

B.1. - 2. Repealed.

C. In 2007 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

D. Beginning in 2007 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

E. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

F. Beginning in 2007, any school that does not have a district feeder pattern must have at least 40 FAY students for 2 consecutive academic years to have an SPS (Baseline or Growth) calculated.

G - J. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:

### **§521. Pairing/Sharing of Schools with Insufficient Test Data**

A. Beginning in 2006, any school with at least one testing grade (3-11) will receive its Baseline SPS based only on its own student data provided it meets the requirements of §519.

1. Repealed.

B. Beginning with the Baseline SPS in 2006, any K-2 school will share 3rd-grade test data from another school. The K-2 school will provide its own attendance data to its own SPS.

1. - 4. Repealed.

C. Beginning in 2007, any school enrolling only 12th grade students will share data with a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based. The 12th grade school will receive an SPS based solely on the graduation index.

D. Beginning in 2007, any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

E. A district must identify the school where each of its non-standard schools shall be "paired". The "paired" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a

non-standard school, the district shall select the "paired" school.

F. A school's paired status at the beginning of the school year for the baseline SPS shall be its status at the end of the school year for the growth SPS (unless a school closure occurs).

G. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §519).

H. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal its SPS and status based on minimum test unit counts.

I. Once the identification of "paired" schools has been made, this decision is binding for 10 years. An appeal to the BESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

J. If 10 years has not elapsed, but a paired/shared school acquires a sufficient number of testing units, then the pair/share relationship will be broken, and the school will be treated as a stand-alone school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:

#### **§525. Growth Targets for New or Reconfigured Schools and Reconstituted Schools**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), repealed LR 36:

#### **Chapter 7. Subgroup Component**

##### **§703. Inclusion of Students in the Subgroup Component**

A. - C.1.a.ii. ....

b. beginning in fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA 1 and LAA 2 students labeled proficient does not exceed 3 percent of all students tested within the district;

i. the district fails to request the waiver; or

ii. if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 2.

1.c. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:428 (March 2008), LR 34:867 (May 2008), LR 36:

#### **Chapter 9. Evaluating Improvement**

##### **§903. Growth Targets and Labels**

A. Exemplary Academic Growth—a school that makes its growth target, the Students with Disabilities (SWD) and Economically Disadvantaged (ED) subgroups improving their adjusted Subgroup Assessment Indices (SAI) at least two points, and the school is not AUS.

B. Recognized Academic Growth—a school that makes its growth target but either subgroup does not improve its adjusted Subgroup Assessment Index (SAI) at least two points and/or the school is AUS.

C. Minimal Academic Growth—a school improving (at least 0.1 points) but not meeting its growth target.

D. No Growth—a school with a change in SPS of 0 to –2.5 points.

E. School In Decline—a school with a declining SPS (more than –2.5 points).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 33:2595 (December 2007), LR 36:

#### **Chapter 27. Supplemental Educational Services Replaced by Bulletin 124**

##### **§2701. Definition of Supplemental Services**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

##### **§2702. Supplemental Educational Service Models**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004), repealed LR 36

##### **§2703. Supplemental Service Providers**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

##### **§2705. State Educational Agency Role and Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), repealed LR 36

##### **§2707. Local Educational Agency Role and Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

### **§2709. Optional LEA Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), repealed LR 36

### **§2711. SES Agreement between Provider and LEA**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), repealed LR 36

### **§2713. SES Provider Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004), repealed LR 36

### **§2715. State Department of Education Approval and Monitoring of SES Providers**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004), repealed LR 36

### **§2717. Appealing State Department of Education SES Decisions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36

### **§2719. Remaining an SES Provider**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36

### **§2721. Review of Provider Performance**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36:

## **Chapter 33. New Schools and/or Significantly Reconfigured Schools**

### **§3301. Inclusion of New Schools**

A. - B. ...

C. New K-8 schools (in existing LEAs) with one year of test data shall be included in accountability. For attendance and dropout data, the district average for elementary schools will be used.

D. The new high school in an existing LEA shall enter accountability using its first year of assessment data, adjusted by the district average dropout data.

1. This adjusted assessment index shall be used as a first year baseline SPS to assign performance labels.

2. The baseline in year two shall consist of the adjusted assessment data from year one and assessment data from year two adjusted by the schools own dropout data from year one.

3. The growth SPS in year two shall consist of one year adjusted assessment data.

4. The graduation index calculated from the school's second graduating class shall be included as a baseline SPS indicator (along with two years of adjusted assessment data in year three of the school's operation.

E. New schools in new districts and new charter schools unaffiliated with existing districts shall enter accountability after their second year of assessment.

1. Elementary schools shall receive their first baseline scores using two years of assessment data and one year of their own attendance and dropout data.

2. High schools shall receive their first baseline scores using two years of assessment data, the first year unadjusted by dropout data, and the second year adjusted by dropout data.

3. High schools shall receive their first growth scores in their third year of operation.

4. The graduation index calculated from the school's second graduating class shall be included as a baseline SPS indicator (along with two years of adjusted assessment data) in year three of the school's operation.

F. Schools with the same first three digits of their six digit site codes are in the same district/LEA when district averages must be used for accountability purposes.

G. Schools that do not align with the patterns described in this section will be included in accountability as soon as the required data is available.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 36:

### **§3303. Reconfigured Schools**

A. Prior to any reconfiguration, the LDE will review the changes to school sites in the planned reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or AUS or subgroup component failure status. After this consultation, the LDE shall make all decisions regarding the effects of these changes on rewards, AUS or subgroup component failure status, and sanctions for all schools effected by the changes and will notify the LEA of its decision.

B. All reconfigurations must be submitted to the Sponsor Site Database before October 1 of the first year of operation under the reconfiguration.

C. Schools that are reconfigured shall continue in accountability based on their new configurations with a change in SPS indicators driving the decisions.

1. K-6 schools have elementary assessment and attendance indicators.

2. K-8 schools have elementary assessment, attendance and dropout indicators.

3. 9-12 schools have secondary assessment and cohort graduation indicators.



4. Combination schools have at least elementary and secondary assessment and attendance indicators; and possibly dropout and graduation indicators.

D. Schools that reconfigure but keep the same indicators will continue in accountability with no special consideration (e.g. K-5 changes to K-6, K-6 changes to K-3, K-7 changes to K-8, 4-12 changes to 6-12, 9-12 changes to 10-12).

E. Schools that reconfigure and add an indicator/s in the process will:

1. receive a baseline SPS following the first year of operation with the new configurations using one year of assessment data; and, a district average for a dropout, attendance, or graduation indicators except in cases where the LDE can determine the district average will inflate scores to avoid accountability consequences;

2. the LDE may use data from a school with similar demographics and/or assessment results if circumvention of policy is indicated;

3. no growth score shall be calculated nor growth labels assigned.

F. Schools that reconfigure and lose an indicator will receive a score based on two years of data collected at the school that aligns with the new configuration.

G. A district with a K-8 school with a greater than 50 percent change in student enrollment, excluding expected grade progression, may request that the school receive a baseline SPS using the first year of assessment data under the new configuration and a district average for attendance and dropout data. A reconfigured high school will retain its graduation data from the prior year. Any AUS, SCF, or AA status and eligibility for participating in any specific programs shall be determined by the LDE. No growth score shall be calculated nor growth labels assigned.

H. The LDE will consult with the district concerning the SPS calculation when unusual circumstances or configurations exist.

I. Data collected at one site shall not be moved to another site and included in accountability results except when two or more schools with dissimilar configurations combine to create 1 school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 31:2765 (November 2005), LR 33:2600 (December 2007), LR 36:

#### **Chapter 37. Inclusion of Lab Schools and Charter Schools**

##### **§3701. Special Consideration of Lab and Charter Schools**

A. Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are lab schools and Type 1, 2, 3 and 5 charter schools that are independent schools and frequently cannot be paired or shared with another school grade level, and/or if there is no home-based district school to which a given student's scores can be returned. Therefore, if they do not have the required data such schools cannot receive an SPS. However, if they meet the requirements for accountability under the subgroup component, these analyses will be conducted, subgroup component failure decisions will be based on these results. If

neither the SPS or subgroup component can be fully applied, the state will include the results of these students in the aggregate state accountability report.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 33:2600 (December 2007), LR 36:

#### **Chapter 39. Inclusion of Students with Disabilities §3901. Assessment of Students with Disabilities**

A. All students, including those with disabilities, shall participate in Louisiana's testing program. The scores of all students who are eligible to take the LEAP, iLEAP, GEE, LAA 1, or LAA 2 shall be included in the calculation of the SPS. Most students with disabilities shall take the assessments with accommodations, if required by their Individualized Education Program (IEP).

1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 36:

#### **Chapter 43. District Accountability**

##### **§4310. Subgroup Component AYP (Adequate Yearly Progress)**

A. - A.1.f. ...

B. Inclusion of Students in the Subgroup Component

1. - 3. ...

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

B.1.a.i. - E. b. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:429 (March 2008), LR 34:868 (May 2008), LR 36:

#### **Chapter 45. Disaster Considerations for School and District Accountability**

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

A. Schools that meet either of two conditions associated with disasters shall be labeled "severe impact" schools and shall receive a one year waiver of accountability decisions based on the schools' school performance scores. The one year waiver is limited to the year in which the disaster occurred. The conditions are:

A.1. - C. ...

D. The year following the waivers, the waived schools shall be considered new schools and shall enter accountability according to the policy in Chapter 33.

E. - 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:

**§4505. Severe Impact Schools Following a One Year Disaster Waiver**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006), amended LR 36:

**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 the 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? No.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Proposed changes in Bulletin 111, Chapter 33 provide detail of how to outline procedures for the placement of new schools into accountability and the reestablishment of accountability for reconfigured schools.

Proposed changes in Bulletin 111, Chapter 45 establish a prescribed time limit for accountability waivers for schools impacted by disasters and make reference to their re-entry into accountability as new or reconfigured schools after the expiration of the waiver.

Proposed changes in Bulletin 111, Chapter 3 provide clarification of the composition of School Performance Scores for schools that have not met accountability standards.

Proposed changes in Bulletin 111, Chapter 4 provide clarification for assessment, attendance, and dropout Index Calculations, particularly defining dropout.

Proposed changes in Bulletin 111, Chapter 5 provide clarification about grade levels at which students take state

assessments, combination of regular and alternate assessment for LAA 2 students, deletion of School Performance Score sharing scenario, with clarification about School Performance Score pairing scenarios.

Proposed changes in Bulletin 111, Chapter 7 provide clarification of the terms and limitations for the combination of LAA 1 and LAA 2 proficiency.

Proposed changes in Bulletin 111, Chapter 9 provide clarification about School Performance Score improvement.

Proposed changes in Bulletin 111, Chapter 37 provide clarification about lab and charter school accountability.

Proposed changes in Bulletin 111, Chapter 39 provide clarification of assessment taken by students with disabilities.

Proposed changes in Bulletin 111, Chapter 43 provide clarification of LAA 1 proficiency limitations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be 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 costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#016

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel  
(LAC 28:CXLVII.Chapters 1-9)

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 *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed Rule replaces policies found in *Bulletin 1943—Policies and Procedures for Teacher Assistance and Assessment* and in *Bulletin 1525—Guidelines for Local Personnel Evaluation*. Both bulletins contained rules for implementing evaluation programs of certificated school personnel (i.e., principals, new and experienced teachers, etc.). Previously implemented rules contained in the two bulletins have been streamlined into a single document. Modifications to currently implemented rules include:

- eliminating the new teacher portfolio as a data collection tool when assessing teachers;
- using formal interviews as a data collection tool when assessing teachers;
- revising the assessment criteria used when assessing or evaluating teachers (i.e. Louisiana Components of Effective Teaching, Domain V. School Improvement);
- substituting the Performance Expectations and Indicators for Education Leaders for the Standards for School Principals as the recognized assessment criteria for principals;

- reduction of the program timeline for assessing new teachers (i.e., from a two-year process to a one-year);
- allowing districts the authority to establish program timelines and instrumentation to be used when assessing new teachers;
- removal of redundancy and dated language.

## Title 28

### EDUCATION

#### Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

##### Chapter 1. Overview

##### §101. Regulations of the Program

A. As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature, and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEA's personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

B. Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana.

C. The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching and were entitled "Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs" and were approved by the BESE in September 1992. These guidelines along with the requirements of the local accountability legislation, form the basis for the local evaluation programs.

D. The BESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel in spring of 1992. The charge of Panel I was to determine and to define the components of effective teaching for Louisiana's teachers. Reviewed and revised in the late 1990s and 2002, the components reflect what actually takes place in the classroom of an effective teacher. The original 35 member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (§901), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation and assessment criteria in the local teacher evaluation programs.

E. In August 2008, the BESE approved the Performance Expectations and Indicators for Education Leaders to replace the Standards for School Principals in Louisiana, 1998 as criteria for principal evaluation. (Appendix B)

F. In 1994, Act I of the Third Extraordinary Session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statues related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary

Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the BESE.

G. Bulletin 130 reflects the most recent local personnel evaluation and state assistance and assessment legislation as well as the state-approved regulations for its implementation. The intent of Bulletin 130 is to present a framework or template for local school systems to use in the development or review of their personnel evaluation and teacher assistance and assessment programs. These programs must fulfill the requirements of the enacted legislation, establish a uniform system of evaluation, and denote the philosophy and unique characteristics of the local school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

##### §103. Philosophy of Personnel Evaluation

A. It is clear that public schools must provide a high quality education that prepares our youth for the demands of the twenty-first century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this charge, the BESE has established uniform regulations for personnel evaluation.

B. Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving the instruction of and the learning environment for all students.

C. Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow.

D. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

##### §105. Purposes of Personnel Evaluation

A. The purposes for which personnel evaluation will be used in Louisiana are as follows:

1. to assure the public that the educational system provides the best opportunities for all children to learn;
2. to assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom;

3. to foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators;
4. to provide support for the assistance/assessment of new teachers;
5. to provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment;
6. to provide procedures for self-evaluation, personal reflection, and peer collaboration;
7. to promote among all school personnel positive interpersonal relationships that will continually increase professional competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§107. Implementation of Personnel Evaluation Programs**

A. Activities to include in the annual implementation cycle of Local Personnel Evaluation Programs are presented below.

1. The LEA's evaluation steering committee reviews and refines plans as needed for implementing its local personnel evaluation programs during the school year.
2. Local school districts may elect to submit their personnel evaluation plans and/or revisions to the LDE prior to the beginning of the next school year. The LDE receives and reviews, per request, local personnel evaluation plans and/or revisions according to the Regulations presented in Bulletin 130.

3. Each LEA's evaluation steering committee implements its refined personnel evaluation program with local Board approval and meets as needed to monitor its implementation.

4. Each LEA provides ongoing staff development for teachers and administrators.

5. Each LEA annually reports the summary results of personnel evaluation to the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§109. Framework for LEA Personnel Evaluation Programs**

A. Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the particular needs of the school district it represents and the regulations developed by the LDE pursuant to the laws.

B. Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation and assessment

have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the BESE. The remainder of this document presents information relative to the criteria for each of the following Sections or elements that should be included in the LEA personnel evaluation program plan.

C. The list below identifies those Sections that are considered essential to an effective personnel evaluation program.

Section 1.0	Focus on Educational Improvement
Section 2.0	Staff Involvement in the Personnel Evaluation Program
Section 3.0	Philosophy and Purposes of Personnel Evaluation
Section 4.0	LEA Personnel Evaluation Glossary
Section 5.0	Evaluation Process Description
Section 5.1	Evaluation Criteria
Section 5.1A	Instructional Personnel
Section 5.1B	Non-Instructional Certified and Other Professional Personnel
Section 5.2	Accountability Relationships Register
Section 5.3	Programs Instruments Register
Section 5.4	Observation Process
Section 5.5	Developing the Professional Growth Plan
Section 5.6	Personnel Self-Evaluation
Section 5.7	The Evaluation Period
Section 5.8	Intensive Assistance Programs
Section 5.9	Induction of New Teachers
Section 5.10	Procedures for Resolving Conflict—Due Process
Section 6.0	Staff Development for Personnel Involved in Evaluation
Section 7.0	Process Instruments
Section 8.0	Job Descriptions
Section 9.0	Employment Requirements
Section 10.0	Evaluation Exemption
Section 11.0	Statement of Assurance

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§111. Definitions**

A. In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each. Careful consideration of each should be given during the development of the LEA personnel evaluation programs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA plan for personnel evaluation. The definitions below must be adopted by all LEAs.

*Accountability*—shared responsibility for actions relating to the education of children.

*Administrator*—any person whose employment requires professional certification issued under the rules of the board in Bulletin 746, or who is employed in a professional capacity other than a teacher.

*Assessment*—the process that determines whether a new teacher who is seeking to retain or to acquire a Louisiana Standard teaching certificate can sufficiently demonstrate the *Louisiana Components of Effective Teaching* to qualify for the teaching credential being sought.

*Assistance Level*—the number of times assistance has been prescribed.

*Certified School Personnel*—those persons whose positions require LDE certification.

*Criteria*—demonstrable levels of performance upon which a judgment or decision may be based.

*Due Process*—fair and impartial treatment as guaranteed under the law, including, but not limited to, the 1st, 5th, and 14th Amendments to the Constitution of the United States; Section 1983 of the Civil Rights Act of 1871; Title VII of the Civil Rights Act of 1964; and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

*Duties*—those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

*Educational Accountability*—the respective shared responsibilities and duties of the following groups: local school boards, administrators, principals, teachers, and other personnel; the LDE; parents and students; and other governing authorities as specified by the constitution and laws of the state.

*Evaluatee*—one who is evaluated.

*Evaluation*—the process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

*Evaluation Period*—the period of time during each school year during which the evaluation program will be conducted.

*Evaluator*—one who evaluates.

*Goal*—a statement of broad direction or intent which is general and timeless and which is not concerned with a particular achievement within a specified time period.

*Instructional Personnel*—those LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

*Intensive Assistance Plan*—the plan that is implemented when personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

*Job Description*—a statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required. (The *Louisiana Components of Effective Teaching* must be included for instructional personnel, and the *Performance Expectations and Indicators for Education Leaders* must be included for building-level administrators.) Space must be provided for signature and date.

*LDE*—Louisiana Department of Education.

*LEA*—local educational agency, parish/city school board, local school system.

*LEA Steering Committee*—a local school district committee representing instructional, certified, and other professional personnel to review the current personnel evaluation program.

*Multi-Opportunity*—more than one opportunity.

*New Teacher*—any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting; one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; one and who holds a regular Louisiana teaching certificate, which when issued was valid for three years; or one who is authorized under law or board regulation to teach temporarily while seeking a regular Louisiana teaching certificate.

*Non-Instructional Certified and Other Professional School Personnel*—those LEA personnel who do not provide classroom instruction.

*Objective*—a devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

*Observation*—the process of gathering facts, noting occurrences, and documenting evidence of performance.

*Other Professional School Personnel*—all school employees whose positions do not require a teaching certificate but do require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

*Performance Criteria*—general and specific standards/indicators by which personnel may be evaluated and on which judgments and decision making may be based.

*Philosophy*—a composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's mission are derived.

*Professional Growth Plan*—a written plan developed to enhance the skills and performance of an evaluatee. The plan includes specific goal(s), objective(s), action plans, timelines, opportunities for reflection, and evaluation criteria.

*Public Schools*—public elementary and secondary schools governed by parish or city school boards and under the supervision of the state Board of Elementary and Secondary Education (BESE).

*School Board*—parish or city school board governing public elementary and secondary schools.

*School District*—the area of each city, parish, or municipality under the jurisdiction of a local school board.

*School Personnel*—teachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state.

*Self-Evaluation*—the process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation report.

*Single Official Personnel File*—single personnel file maintained in the LEA central office. At minimum, the contents of the single official personnel file must include:

a. documentation for the annual review or update of job descriptions and self-evaluations;

b. copies of completed observations, evaluations, and assessments;

c. completed professional growth plans or evidence to support the initiation and annual review of long term growth plans.

*Staff Development*—process designed for groups of LEA personnel with similarities guided by school/district goals and plans. It should encourage collective growth in a common direction and lead to an enhanced repertoire of skills/concepts.

*Standard*—that which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

*Standard of Performance*—an authoritative or mutually established level of accomplishment.

*Teacher*—any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting including a librarian, an assessment teacher, a speech therapist, and a counselor; one who is not an administrator; and who has successfully completed the Teacher Assistance and Assessment Program or who is not required to participate in the Teacher Assistance and Assessment Program.

*Triennial*—occurring every third year.

*Uniform Evaluation System*—a system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **Chapter 3. Template for Personnel Evaluation Plans**

#### **§301. Focus on Educational Improvement**

A. The first section of the local personnel evaluation plan should present an overview of the district's philosophy and educational goals. The LEA Personnel Evaluation program should be well-grounded in the local school district's educational philosophy and goals. A clear message is provided as to how LEA personnel evaluation will be used to facilitate more effectively the attainment of short and long term goals for educational improvement at the district and school building levels. The overview of the district's philosophy should describe not only the LEA's philosophy and educational goals but also their relationship to the LDE's philosophy and purpose of personnel evaluation. The district's philosophy should also include the relationship of the personnel evaluation program to goals for educational improvement at the district and school building level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§303. Staff Involvement in the Personnel Evaluation Program**

A. The LEA will form a balanced personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by the groups they represent. In section 2.0 of the LEA personnel evaluation plan, the LEA describes the

composition and work of the LEA steering committee. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the regulations set forth in Bulletin 1525. The steering committee oversees the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. This committee annually evaluates the extent to which the purposes of the local personnel evaluation program are being achieved, and presents any revision of the plan to the LEA Board for its approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§305. Philosophy and Purposes of Personnel Evaluation**

A. Key elements of section 3.0 of the LEA personnel evaluation plan include a clear description of the philosophy and the purposes for which personnel evaluation is used in the local school district. The philosophy that is presented should be supported by contemporary research and grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

B. One purpose of the LEA personnel evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the most qualified personnel are employed in every position, and that effective teaching continues in the classroom. Additional purposes to include and describe in Section 3.0 are the improvement of the teaching-learning process, the encouragement of creativity and innovation in planning, and the implementation of teaching strategies.

C. All of the purposes of the LEA personnel evaluation program should promote the professional growth and development of staff, as well as the support of new teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§307. LEA Personnel Evaluation Glossary**

A. When developing section 4.0 of the LEA personnel evaluation plan, the LEA should include a complete listing of all evaluation terms used in the school district. Definitions of each term should be provided to assist with program consistency and standardization. A minimal list of terms and definitions to include in the LEA Personnel Evaluation Glossary is provided in section 111 of this document. The LEA may include other terms and definitions as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§309. Evaluation Process Description**

A. Section 6.0 contains a description of the LEA's evaluation process. The various procedures involved in the evaluation of personnel must reflect the regulations presented within this Section. All procedures should be

written clearly so that all evaluation procedures are readily discernible to all of the individuals involved.

B. It is important to note that Chapter 5 of Bulletin 130 applies to classroom teachers. The evaluation process for principals must comply with the *Performance Expectations and Indicators for Education Leaders* (§905). Furthermore, the LEA's description of the evaluation process should integrate and apply the content that is applicable and appropriate for all certified and other professional personnel. The regulations to use in developing the description of the evaluation process for all certified and professional personnel follow.

1. The evaluator's assessment of performance shall be based on the criteria specified in the written job description, including the *Louisiana Components of Effective Teaching* for instructional personnel and the *Performance Expectations and Indicators for Education Leaders* for building-level administrators.

2. The evaluator's assessment of the progress the evaluatee has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator shall be documented.

3. The evaluatee's self-evaluation, as well as progress toward achieving those objectives included in his/her professional growth plan shall be included in evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§311. Evaluation Criteria**

A. In section 5.1 the LEA defines the criteria used in the evaluation of all certified and other professional personnel. Evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. When designing evaluation instruments, the LEA must include a description of the standards for satisfactory performance for all personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§313. Evaluation of Instructional Personnel**

A. Section 5.1A outlines the evaluation criteria that the LEA will use when evaluating instructional personnel who are not participating in new teacher assistance and assessment. It is important that instructional personnel know that they are evaluated on the basis of the criteria defined in their respective job descriptions including the *Louisiana Components of Effective Teaching* (§903) and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching. The evaluation criteria must conform to the following regulations.

1. The evaluation criteria for all instructional personnel shall be stated clearly in writing in the job description.

2. The *Louisiana Components of Effective Teaching* shall be included in the job descriptions of instructional personnel.

3. The evaluation criteria shall provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§315. Evaluation of Non-Instructional Certified and Other Professional Personnel**

A. In this Section, the plan describes the design of appropriate instrumentation that is used in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific Professional Growth Plan designed by the evaluatee and the evaluator. The design of the instrument(s) must conform to the regulations listed below.

1. The criteria included in the job description shall be evaluated; a description of the standards for satisfactory performance shall be indicated.

2. The evaluation criteria for all building-level administrators shall include the *Performance Expectations and Indicators for Education Leaders* (§905).

3. The criteria for the evaluation of Professional Growth Plans shall be specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§317. Accountability Relationships Register**

A. Section 5.2 of the LEA Personnel Evaluation Program plan contains an Accountability Relationships Register. The register clearly defines the LEA's accountability relationships for all certified and other professional personnel. It is important that the LEA includes a description of the process by which all accountability relationships are communicated annually so that all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation. An example of an Accountability Relationships Register follows.

B. Accountability Relationships Register

Evaluatee	Evaluator
Classroom Teachers	Principals
Principals	Supervisors
Supervisors	Superintendent
<p>Note: The Register must contain a list of all categories of evaluatees in the school district. Titles of evaluatees should match those presented on the job descriptions.</p>	
<p>Note: The Register must contain a list of the evaluators for each evaluatee in the district. Titles of evaluators should match those presented on the job descriptions.</p>	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§319. Program Instruments Register**

A. Section 5.3 of the LEA Personnel Evaluation program plan contains a register or listing of all evaluation program instruments. A numerical coding system may be used to identify all of the various evaluation forms. It is extremely helpful to standardize the location and size of the coding that is selected. A sample of a Program Instruments Register is provided below.

B. Program Instruments Register

Instruments	Codes
Professional Growth Plan Form(s)	PGP 1
Personnel Observation Form(s)	POF 1
Personnel Evaluation Form(s)	PEF 1
Self-Evaluation Form(s)	SEF 1
Intensive Assistance Form(s)	IAF 1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§321. Observation Process**

A. The observation procedures for all certified and other professional personnel who are employed in the district and who are not participating in Teacher Assistance and Assessment are included in section 5.4. A detailed narrative of the procedures to be followed shall be included in this Subsection. Regulations that must be addressed and incorporated in the LEA observation procedures are listed below.

1. The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

2. The LEA must specify how often observations will occur. A minimum of one observation every year for personnel with 0-3 years experience, and one observation every 3 years for personnel with 4+ years experience is required. (Teachers participating in the Teacher Assistance and Assessment Program may substitute elements of evaluation according to the LEA plan.)

3. The evaluator of each teacher or administrator shall conduct a preobservation conference during which the teacher or administrator shall provide the evaluator with relevant information.

4. The LEA must notify the evaluatee in advance when observation(s) will occur. All types of observations used in the LEA must be defined in the LEA's plan.

5. The LEA must specify how the post-observation conference will be conducted.

6. The LEA must specify how copies of the completed observation forms will be disseminated and filed.

7. The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

B. Instructional Personnel. In addition to the regulations listed above, the following observation procedures are required for instructional personnel. Classroom observation

is a critical aspect of the teacher evaluation process. Regulations that must be considered and included in the LEA plan when evaluators conduct classroom observations follow.

1. Periodic classroom observations shall be used to evaluate teaching.

2. A pre-observation conference shall be held to review the teacher's lesson plan; the review may include information about the use of technology, student assessment practices, and school improvement efforts.

3. Observations shall be of sufficient duration to see the lesson begin, develop, and culminate.

4. A post-observation conference shall be held to discuss and analyze the lesson as well as to prepare an observation report.

5. The primary purpose of the classroom observation shall not be to rate the teacher, but rather, to reach consensus on not only commendations, but also recommendations to strengthen or enhance teaching.

6. Follow-up observations shall be conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

7. Classroom visits may be conducted to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§323. Developing the Professional Growth Plan**

A. The process that is used to develop and evaluate the Professional Growth Plan (PGP) is specified in section 5.5. Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term PGPs to strengthen or enhance the job performance of all certified and other professional personnel. These PGPs must be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than on only the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. Evaluatees are encouraged to provide self-reflections about their progress on attaining specific goals and/or objectives. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

B. The LEA process for developing and reviewing professional growth plans must conform to the regulations listed below.

1. All longer term (one, two, or three year) PGPs must be reviewed and updated annually.



2. The PGP shall be developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this Subsection. The LEA must develop forms for the PGP.

3. PGPs shall be based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. Successful teachers or other professional personnel shall not be mandated to participate in any one specific growth activity.

4. A plan of action and evaluation criteria shall be specified for each objective. During the annual review, documentation must be presented to support completion of the professional growth plan activities.

5. For successful, experienced personnel, objectives shall be used to explore new, untried, innovative ideas or projects.

6. The evaluator(s) and evaluatee(s) must sign and date each completed PGP form after it has been developed and again after it has been reviewed. All forms must be signed and dated prior to dissemination and filing.

7. It is recommended that the evaluator and the evaluatee maintain a copy of all completed forms. A copy of the PGP must be filed in the single official file at the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§325. Personnel Self-Evaluation**

A. In this Section, the LEA delineates its personnel self-evaluation process. The LEA must encourage all certified and other professional personnel to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports that certified and other professional personnel submit as part of the personnel evaluation process. Training should be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities should be provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these regulations.

B. In developing section 5.6, the LEA plan for self-evaluation must address the following components.

1. A plan for ensuring that certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration should be included.

2. Self-evaluation must be included as part of the overall annual evaluation process for all certified and professional personnel.

3. The plan should specify how the self-evaluation will be documented and how copies will be disseminated and filed. Documentation that self-evaluations have been

completed should be placed in the evaluatee's single official file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§327. The Evaluation Period**

A. The evaluation of staff may vary depending on their experience and proficiency. The evaluation process for new teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement. New teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. (see §343). More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. An evaluation cycle may be implemented as follows.

1. Year One. Certified and other professional personnel are evaluated formally based on observations of the criteria listed on job descriptions, professional growth plans, and self-evaluations.

2. Year Two-Three. Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan and self-evaluations. It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

B. The LEA must incorporate the regulations listed below in the description of its evaluation process and time period.

1. The process must specify the number of evaluators per evaluatee.

2. The process must include how the evaluatee will be informed of the criteria of expected performance.

3. Provision for the annual written evaluation of all certified and other professional personnel must be included in the process.

4. The evaluation process should be tailored to the levels of experience and proficiency of the certified and other professional personnel.

5. Successful, certified and other professional personnel who are evaluated on a multi-year cycle should be encouraged to pursue more meaningful, longer-term professional growth and school improvement initiatives.

6. The plan must specify the procedures to be used in conducting post-evaluation conferences.

7. The plan must include a process for the dissemination and filing of completed evaluation forms. One copy shall be maintained in the evaluatee's single official file at the central office.

C. The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is recommended. Procedural due process is mandatory in the

personnel evaluation programs, and a breach in this matter will be considered serious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §329. Intensive Assistance Programs

A. This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance.

B. If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies:

1. what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected;
2. what assistance/support shall be provided by the school district;
3. a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences; and
4. the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

C. LEAs must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

D. In this section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following regulations.

1. An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.
2. Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.
3. An intensive assistance plan shall be developed for any evaluatee placed in such a program.
4. The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.
5. The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.
6. The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information:

- a. what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;

- b. an explanation of the assistance/support/resource to be provided by the school district;

- c. the evaluatee's and evaluator(s)' names and position titles;

- d. a space for indicating the date that the assistance program shall begin;

- e. the date when the assistance program shall be completed;

- f. the evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.);

- g. the timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years);

- h. an explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.);

- i. the action that will be taken if improvement is not demonstrated.

7. The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

8. Completed intensive assistance plans and all supporting documents, such as observations, correspondence, and any other information pertinent to the intensive assistance process, must be filed in the evaluatee's single official file at the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §331. Induction of New Teachers

A. In this Section, the LEA describes its process for coordinating the induction of new teachers into the school system. Mentor support should be provided through the Teacher Assistance and Assessment Program or coordinated with other school or district initiatives for the induction and professional growth of new teachers. A concerted effort should be made to insure that new teachers are socialized in a professional manner and that they experience success in the classroom.

B. The LEA's induction process must consider that mentor support is provided for the induction of new teachers, that the *Louisiana Components of Effective Teaching* is a focus for the evaluation of new teachers, and that all assistance made available through the LEA personnel evaluation process is coordinated to limit the duplication of services for new teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§333. Procedures for Resolving Conflict—Due Process**

A. This Section of the LEA personnel evaluation program must include the procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:3883(7), R.S. 17:3884, and R.S. 17:3902 must be included in the evaluation and assessment processes.

B. The LEA must address the following components of due process.

1. The evaluator shall provide the evaluatee with a copy of the evaluation and/or assessment results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

2. A post-evaluation conference must be held following the evaluation and/or assessment, and prior to the end of the semester or school year in order that the results can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

3. The evaluation and the assistance and assessment programs shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

4. The evaluatee may file his/her own written response to the evaluation or results of the assessment. (A self-evaluation form may not serve as an evaluatee's written response.)

5. The evaluatee may file a written response to the evaluation or results of the assessment that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

6. When evaluatees are not performing satisfactorily, they must be informed in writing.

7. The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation or the assessment that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation or the assessment.

8. The evaluatee must be provided with ample assistance to improve performance.

9. The evaluatee may request that an evaluation be conducted by another source, or that a member of an assessment team be replaced. (The LDE recommends that the LEA name the source from which another evaluator or assessor may be selected.)

10. The confidentiality of evaluation and assessment results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation and assessment documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to enter the official personnel files. The positions of these individuals must be included.

11. Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§335. Staff Development for Personnel Involved in Evaluation**

A. In this Section of the LEA Personnel Evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation and assessment process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). It is recommended that all training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward teacher evaluation and assessment;

2. a knowledge of state laws and LEA policies governing the evaluation and teacher assistance and assessment processes and associated due process procedures;

3. an understanding of the Louisiana components of effective teaching;

4. an understanding of the Performance Expectations and Indicators for Education Leaders ; and

5. an understanding of the LEA's personnel evaluation and teacher assistance and assessment programs, including the philosophy and purposes, criteria, and procedures.

B. The LEA's plan may include a description of additional training for evaluators and assessors. Training should focus on developing the skills needed to diagnose, strengthen, and/or enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the training:

1. data collection skills necessary to document a teacher's performance accurately;

2. data analysis skills necessary to make accurate judgments about a teacher's performance;

3. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;

4. skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness; and

5. skills in writing effective evaluation and assessment reports that document how evaluation and assessment has impacted the quality of the teaching-learning process in the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§337. Process Instruments**

A. This Section contains a copy of each instrument that is currently used in the LEA's evaluation process. Included instruments should be listed in the Program Instrument Register in section 6.3. Suggestions that should be included in the development of the required evaluation instruments are included in the chart on the following page.

Instrument	Description
Professional Growth Plan Form	<ol style="list-style-type: none"> <li>Developed for all certified and other professional personnel</li> <li>Includes space for objectives, as well as a plan of action and evaluation criteria for each objective</li> <li>Includes signature and date lines to document the initiation/development of the plan and the annual review/update</li> </ol> <p>Note: Multi-year PGP forms must include space for the annual review dates and signature.</p>
Observation Form	<p>Developed to complement the evaluation form</p> <p>Note: For instructional personnel, it is not acceptable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.</p>
Evaluation Form	<p>Designed for use in the evaluation process</p> <p>Note: A checklist or rating scale is not acceptable for the evaluation of instructional personnel; rather, space must be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.</p>
Self-Evaluation Form	<p>Developed for all personnel to use in assessing their own performances</p>
Intensive Assistance Form	<ol style="list-style-type: none"> <li>Developed for use in the evaluation process</li> <li>Provides space for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance</li> <li>Describes the assistance/support provided by the school district</li> <li>Specifies the timelines and procedures for evaluating the evaluatee's progress</li> </ol>

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §339. Job Descriptions

A. The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. Copies of job descriptions must be distributed to all certified and professional personnel prior to employment. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	<ol style="list-style-type: none"> <li>Teachers of Regular and Sp. Ed. students</li> <li>Special Projects Teachers</li> </ol>
Support Services	<ol style="list-style-type: none"> <li>Guidance Counselors</li> <li>Librarians</li> <li>Therapists</li> </ol>

Personnel Category	Position or Title
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	5. Any employee whose position requires certification, but whose title is not given in this list
	6. Any employee who holds a major management position, but who is not required to have a college degree or certification

B. The local board has the responsibility of developing job descriptions for the various positions in accordance with its evaluation program. The following components must be included in each job description developed:

- position title;
- position qualifications must be at least the minimum requirements as stated in LDE *Bulletin 746—Louisiana Standards for State Certification of School Personnel* (The qualifications must be established for the position, rather than for the evaluatee.);
- title of the person to whom the evaluatee reports;
- title of the person whom the evaluator supervises;
- performance responsibilities of the evaluatee (refer to \* below);
- a space for the evaluatee's signature and date; and

**NOTE:** Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

7. all certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

\*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include the *Performance Expectations and Indicators for Education Leaders* as part of the performance responsibilities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §341. Employment Requirements

A. Section 10.0 of the personnel evaluation plan should describe the policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA. In the development of this policy, the LEA must adhere to the legislation governing employment requirements. R.S. 17:3884(D) requires that any local board wishing to hire a person who has been evaluated pursuant to Act I of 1994 and Act 38 of 2000, whether that person is already employed by that school system or not, shall request such person's assessment and/or evaluation results as part of the application process. The board to which application is being made shall inform the applicant that, as part of the mandated process, the applicant's assessment and/or evaluation results shall be requested from the previous employer. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

B. The LEA must adhere to the following regulations when developing section 10.0.

1. The school board shall request the assessment and/or evaluation results of any person it wishes to hire.

2. The school board shall provide other school boards with assessment and/or evaluation results of persons that the other school boards wish to hire.

3. The evaluatee shall be given the opportunity to review those assessment and/or evaluation results and provide any response or information that the evaluatee deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§343. Evaluation Exemption**

A. In this Section, the LEA describes its procedures for including/exempting from local evaluation those persons participating the assistance and assessment program during the period in which they are being assessed. Key points to consider in the exemption policy follow.

1. Teachers participating in the Teacher Assistance and Assessment Program may be exempt from all or part of the local evaluation accountability required by law during the period in which they are being assessed.

2. An exemption from local personnel accountability shall not interfere with the right and duty of the appropriate LEA personnel to observe and evaluate the teachers in the performance of their duties.

3. LEAs shall maintain the right to make employment decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§345. Statement of Assurance**

A. This Section of the plan includes a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation and teacher assistance and assessment programs shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA's School Board; the LDE requests that the LEA submit the statement of assurance prior to the opening of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

## **Chapter 5. Regulations for Teacher Assistance and Assessment**

### **§501. Purpose**

A. The intent of Chapter 5 is to present a framework for local school systems to use in the development/implementation of the teacher assistance and assessment program. The program must fulfill the requirements of the enacted legislation, establish a uniform

system of assistance and assessment, and denote the philosophy and unique characteristics of the local school system.

1. It is the purpose of the teacher assistance and assessment program to provide new teachers with a planned program of leadership and support from experienced educators during the most formative stages of their teaching experience.

2. It is further the purpose of the assistance and assessment program to provide assurance to the state, prior to the issuance of a higher-level Standard Louisiana teacher certificate, that each new teacher demonstrates competency in the understanding and use of the Louisiana Components of Effective Teaching.

B. To accomplish the first purpose, data regarding the new teacher's strengths and weaknesses will be collected during the first semester by the mentor and principal, and a professional development plan designed, which when implemented can lead to improvement will be developed. In addition, each new teacher during the first semester and throughout the school year shall be provided mentor support that will lead professional development activities designed to enhance competencies found to be essential to student learning. During the second semester, data shall be collected and shall form the basis for recommendations to the Louisiana Department of Education (LDE) and the State Board of Elementary and Secondary Education (BESE) regarding the teacher's certification. In addition, the teacher will continue to participate in a program of encouragement, support, and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§503. Process**

A. Successful completion of the teacher assistance and assessment program is required for all teachers entering service for the first time in the public schools to retain or acquire a standard Louisiana teaching certificate.

B. Beginning fall 2008, a teacher with experience who enters Louisiana public schools for the first time and provides appropriate evaluation results from their immediate previous teaching assignment shall be excluded from participation in the Teacher Assistance and Assessment Program.

C. In section 503 the LEA shall describe the review process that it will implement to determine those new teachers who are eligible for exclusion from its teacher assistance and assessment program. Consideration shall be given to:

1. documentation of successful teaching experiences by former employer; and

2. type of license or certificate held by the applicant.

D. Each LEA shall report to the LDE the dates and names of those teachers excluded from the teacher assistance and assessment program during the first year of their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§505. Definitions related to Exclusion**

*Appropriate Evaluation Results*—shall be defined as satisfactory annual evaluation results as defined by and certified by the immediate previous out-of-state school/district(s).

*Experienced in Other States*—shall be defined as one or more years of creditable experience in a public school approved/accredited by the state or regional accreditation agency.

*Immediate Previous Teaching Assignment*—as it pertains to assistance and assessment shall be defined as the teaching assignment last held by the applicant for a period of one creditable year or more within a 5-year period immediately preceding employment in a Louisiana public school.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§507. Procedures to Request Exclusion**

A. To request exclusion from the Teacher Assistance and Assessment Program, the teacher must submit the following materials:

1. a completed exclusion request form. Each teacher applying for exclusion shall sign a release to solicit needed personnel evaluation information from the previous school/school system. The request form and release must be submitted within the teacher’s first year of employment to be considered for exclusion.

B. The LEA will review the request, and notification indicating approval or denial will be returned to the teacher system submitting the request.

C. Experienced teachers from out-of-state holding a National Board for Professional Teaching Standards (NBPTS) Certificate will be approved for exclusion from the Teacher Assistance and Assessment Program upon submission of the completed exclusion form and a copy of their valid NBPTS Certificate. The National Board Certified Teacher (NBCT) applicant from out-of-state must follow all procedures and must attach a copy of their valid NBPTS Certificate for review.

**NOTE:** Approval of requests for exclusion will be granted if the completed exclusion request form contains the signature(s) of the administrative authority(ies) responsible for authorizing the results of the evaluation(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§509. Timely implementation of the Program**

A. To ensure fair and timely assistance to and assessment of every participating new teacher, a yearly schedule of activities must be maintained. In this Section the LEA must describe the calendar of activities that will be followed when implementing Teacher Assistance and Assessment. The calendar must include a timeline for reporting the names of participating new teachers, key assistance and assessment activities, and a timeline for reporting the names of teachers who successfully meet the assessment standards.

Activity	Fall Semester Entry	Spring Semester Entry
Assignment of Mentor	Upon employment or entry to the school	
New Teacher Orientation to Assistance and Assessment Program (LEA)	First 2-3 weeks of employment	
Mentor/Teacher Activities	August-June	January-December
Informal and "Full" Observations of New Teacher by Principal or Designee and Mentor	February-April	September-November
Professional Growth Plan and Conference (Mentor, Principal, and New Teacher)	After "full" observation	
Assignment of Assessor Team	January-Semester Two	August-Semester Two
First Assessor Visit	September-October	January-February
Second Assessor Visit	October-November	February-March
Team Consensus Meeting	November-Early December	March-Early April
Team Summary Conference	By Mid-December	By Mid-April
Assessment Results and Recommendations Forwarded to LDE	By Mid-January	By Mid-May

**NOTE:** This is a general schedule for a typical school year allowing for fall and spring entry of teachers. LEAs may describe the calendar (i.e., semester) of activities that will be implemented.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§511. Terminology**

A. In order for consistency to be maintained on a statewide basis, the following list of terms is provided so that everyone involved with the teacher assistance and assessment program has a common understanding of terminology most frequently used. Careful consideration of each term should be given during the development of the Teacher Assistance and Assessment Program. If additional terms are necessary to establish a clear and concise understanding of procedures, they must be included in the LEA’s plan for implementation. Section 511 shall include the following applicable definitions:

*Appeal*—the process by which a teacher can request a review of assessment results and/or procedures.

*Assessment Standards for Certification*—levels of competence in the Louisiana Components of Effective Teaching to be demonstrated by a teacher in the Teacher Assistance and Assessment Program as prerequisite to retaining the Standard teaching certificate.

*Assessment Team*—a team of two highly qualified, experienced educators assigned to the new teacher for assessment purposes. One member is the new teacher’s immediate supervisor; and the other may be determined by the LEA. (See other definitions for outside assessor.) The new teacher’s mentor cannot also serve as his/her assessor.

*Assessor*—a trained supervisor, experienced teacher, or outside assessor who gathers data on the performance of a

new teacher. Performance is measured by the Louisiana Components of Effective Teaching.

*Assistance and Assessment Period*—the time frame established for new teacher participation in the Teacher Assistance and Assessment Program. The assistance period is two semesters, and the assessment period covers the second and possibly the third semester of teaching.

*Experienced Teacher*—a qualified educator who holds a permanent teaching certificate may serve as a member of the assessment team in another school. It is suggested that the experienced teacher have five years of teaching experience.

*External Assessor*—an active faculty member of a college or university, a central office administrator, retired educator, experienced teacher, or other educators as deemed appropriate. The external assessor must be qualified to serve as an assessor by virtue of having completed the assessor training program and having met all requirements thereof.

*Immediate Supervisor*—the new teacher's principal (or designee), or a special education or vocational supervisor to whom the new teacher directly reports.

*Pre-Observation Interview Conference*—a discussion between the assessor or mentor and the new teacher which occurs prior to the classroom observation; the purposes are to share information about the lesson/classroom to be observed and to conduct a planning and student assessment interview; the interview is structured so that all new teachers are asked the same basic questions in the same order.

*Mentor Teacher*—an experienced teacher assigned to a new teacher to provide assistance as a coach, model, and professional development specialist. To be eligible for assignment as a mentor, the teacher must have a permanent teaching certificate and a minimum of three years of teaching experience, a minimum of one complete year of experience in the school or school system, and training as both an assessor and a mentor.

*Mentor Support Team*—a group of educators led by a teacher of record who has completed the Teacher Assistance and Assessment Training Program (i.e., assessor and mentor training). It is recommended that a mentor support team support no more than five new teachers at the district or building level.

*New Teacher*—any full-time employee of a local board who is engaged to directly and regularly provide instruction to students in any elementary, secondary, or special education school setting, one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; and one who holds a regular teaching certificate which when issued was valid for three years, or who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

*Nonstandard Certificate*—a temporary license issued to one who has not yet completed all requirements for Louisiana certification but who is authorized to teach on a provisional basis in Louisiana schools while pursuing completion of all certification requirements.

*Observation*—the process of collecting information about teaching performance through watching and listening in the classroom; the data collected during the observation process.

*Postobservation Conference*—a discussion between the new teacher and the assessor or mentor for the purpose of

reviewing the observation, discussing congruency with the informal conference, and sharing commendations, insights, and ratings

*Professional Growth Plan*—a written plan for improvement, based on the new teacher's self-assessment of areas for refinement and the mentor's and/or assessors' identification of areas for growth during the assistance and assessment cycles.

*Standard Certificate*—a license issued to one who has completed a teacher education program and satisfied other requirements for certification in Louisiana.

*Supervisor's Review*—a way to collect and measure school improvement data. The new teacher's principal (supervisor) must refer to the complete list of attributes and their definitions when assigning ratings.

*Team Summary Conference*—a summary session in which ratings and information from the assessment are provided to the new teacher by the assessors.

*Team Summary Report*—the report used to record final attribute and component scores and documentation summarizing the results of the assessment. The report is completed by all assessors at the end of the assessment cycle. The report is also used to record the status of the teacher with regard to accomplishment of the assessment standards for certification.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§513. Inducting and Mentoring New Teachers**

A. As Louisiana strengthens its efforts in school and district accountability, the need for a stable, qualified teaching force becomes clearly evident.

B. Research clearly supports not only the success of induction programs, but also the importance of developing and providing such programs along with mentoring opportunities for all new teachers. In addition to easing the new teacher's transition into teaching, the LEA should design induction programs to improve teacher effectiveness through training in classroom management and effective teaching techniques, to promote the district's culture, and to increase the retention of greater numbers of highly qualified teachers. On-the-job district induction, support through the Teacher Advancement System, and the mentoring provided through the Teacher Assistance and Assessment Program can accelerate the success and effectiveness of beginning teachers as well as prevent some of them from leaving the teaching profession.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§515. Mentor Qualifications**

A. The building principal shall assign a mentor teacher to each new teacher (teachers entering Louisiana public schools for the first time who do not meet the conditions for exclusion from the Teacher Assistance and Assessment Program described in §503.B of this bulletin). To qualify as a mentor teacher, an experienced teacher must have:

1. a permanent teaching certificate and a minimum of three years of teaching experience (five years preferred);

2. a minimum of one years of experience in the school system where he/she will serve as a mentor (preferably in the building in which the new teacher is located);
3. evidence of excellence in teaching (type of evidence left to the LEA and building principal);
4. evidence of continuing professional development (type of evidence left to the LEA and building principal);
5. successful completion of the teacher assessor and mentor training programs (teacher-met standards for knowledge and performance in these training programs);
6. ability to model effective instruction and to communicate effectively.

B. To qualify as a mentor support team member, a candidate may be:

1. a trained mentor, including full or part-time teachers, resource teachers, subject area coordinators, teachers on special assignment, teachers on leave or sabbatical, Regional Service Center coordinators with appropriate experiences, and retired teachers who have been retired no more than five years prior to becoming a member of the mentor support team;
2. a principal or other administrator;
3. one or more members who may not have attended mentor training, but who can offer special expertise such as subject area specialists or key resource teachers (team members need not be in the same building as the new teacher);
4. a new teacher who has successfully completed the Teacher Assistance and Assessment Program.

C. The mentor team leader is the teacher of record responsible for reporting placement information and for planning mentor team activities. At minimum, the mentor team leader must have completed the Teacher Assistance and Assessment Training Programs (i.e., Assessor and Mentor Training).

NOTE: A new teacher being mentored shall not be assigned a department supervisor or administrator who will participate in his/her evaluation or assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§517. Mentor Assignments**

A. Local school systems and building principals should adhere as closely as possible to the following when assigning mentors or mentor support teams to new teachers for two semesters.

1. Mentors and new teachers should be matched by grade level and subject areas, if at all possible; at minimum, regular education teachers should be paired, and special education teachers should be paired.
2. The building principal will make the mentor assignment for the new teachers, unless the school system has another procedure in place.
3. A mentor teacher who is teaching full-time should be assigned no more than two new teachers to mentor, unless he/she is willing. However, this does not preclude a teacher serving as a mentor also serving on an assessor team for a different new teacher than the one(s) he/she mentors, if he/she is willing to do so.

4. A teacher can be assigned as a mentor to several new teachers as a full-time or part-time responsibility.

5. A teacher who is employed as a full-time mentor may serve in that position for no more than three years consecutively. A full-time teacher who mentors one or two new teachers as an additional responsibility is not subject to this provision.

6. A mentor support team shall be assigned no more than five new teachers to mentor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§519. Mentor/New Teacher Activities**

A. There is sometimes a tendency to "load" new teachers with extra-curricular duties and responsibilities. A concerted effort should be made to minimize these responsibilities during a teacher's first year in the classroom. It is to the benefit of students, learning, and the new teacher to focus the new teacher's attention primarily and specifically on the delivery of quality instruction.

B. During the new teacher's first semester, it is expected that mentor or mentor support team/new teacher activities will include:

1. familiarization of the new teacher with school routines, procedures, and resources;
2. discussions around new teacher questions and needs;
3. mentor or mentor support team observations of the new teacher with appropriate feedback, including one or more observations that parallel those which will be conducted by assessors during the second (assessment) semester;
5. new teacher observations of the mentor or mentor support team and other teachers as appropriate;
6. one or more pre-observation conferences conducted by the mentor or mentor support team that parallel those which will be conducted by assessors during the second (assessment) semester;
7. at least one visit to the new teacher by the building principal like that which will be conducted by assessors during the second assessment semester; i.e., pre-observation conferences, observation feedback;
8. collaborative formulation by the mentor or mentor support team, principal, and new teacher of a formal Professional Growth Plan for the new teacher. Said plan should be formulated after both mentor and principal have conducted informal conferences and classroom observations;
9. provision of assistance to the new teacher by the mentor or mentor support team and others in understanding the characteristics of students, school, and community that can/will influence teaching and learning;
10. provision of assistance to the new teacher by the mentor or mentor support team and others in interpretation and use of student assessment data in improving instruction;
11. provision of assistance to the new teacher by the mentor or mentor support team and others in forming meaningful collaborative relationships with colleagues, parents, and the community.

C. During the new teacher's second semester, it is expected that mentor or mentor support team/new teacher activities will include:



1. additional informal conferences and observations;
2. additional new teacher observations of the mentor or mentor support team and other teachers, as appropriate;
3. additional mentor assistance in resolving problems and issues confronting the new teacher;
4. mentor or mentor support team assistance in expanding the new teacher's repertoire of effective teaching practices and student assessment techniques;
5. continuing mentor or mentor support team assistance in analyzing data, and using information that will increase student learning and effective instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §521. Assessment

A. In this Section, the LEA will describe the procedures that will be used during the assessment semester. If additional procedures are to be used, they must be included in the LEA's plan for implementation and relative definitions must be referenced appropriately.

B. During the assessment semester, the two person assessment teams will carry out the following processes.

1. Each assessor shall visit the new teacher and conduct a formal pre-observation interview, observation, and postobservation conference, in that order.

2. The formal pre-observation interview may be conducted prior to the scheduled observation, if that procedure is agreeable to both the assessor and the new teacher.

3. The postobservation conference shall be held as soon as possible (within 2 business days) following the completion of the observation. However, it can be held on the same day that the observation is conducted, if that procedure is agreeable to the new teacher and assessor.

4. It is recommended that an assessor should complete all responsibilities (formal conference, observation, postobservation conference) with one teacher before beginning assessment of another.

5. During each postobservation conference, the assessor and the new teacher will formulate improvement plans in accordance with the assessment data available. Professional growth is a continuous process which should not wait until all visits for assessment are completed.

6. At the conclusion of each postobservation conference, the new teacher shall be provided a copy of the postobservation conference record. Copies of the observation and pre-observation interview records shall also be provided, if the teacher requests them.

7. At the end of the semester, when both members of the assessment team have completed their visits, they shall compare and combine their findings, share their consensus findings with the teacher being assessed, and prepare a comprehensive Professional Growth Plan. Both members of the assessment team shall be present for this conference with the new teacher.

8. The assessment team will combine attribute ratings into component ratings in order to determine if the teacher being assessed has met the assessment standards for certification. In the event the two members of the assessment team are in disagreement over the certification

recommendation and the disagreement cannot be resolved, the principal/designee shall notify the LEA contact person of the impasse within two working days after the assessor team consensus meeting. Within five working days of this notification, the LEA contact person shall appoint a third assessor external to the school, who will conduct a third visit and participate in the certification decision. The assessment ratings, the resultant recommendations pertaining to the assessment standards for certification, and identified instructional strengths and needs of the teacher, will be shared at the summary conference and used to develop with the new teacher a new or modified Professional Growth Plan.

9. At the conclusion of the summary conference, the new teacher shall be provided copies of the Team Summary Report and the Professional Growth Plan. If the teacher desires copies of other assessment instrumentation not previously received, these records can also be requested in writing at this time.

10. The rating scale to be used in the Teacher Assistance and Assessment Program shall be a two-point scale where a rating of "two" is defined as "Competent" and a rating of "one" is defined as "Needs Improvement." (Assessment standards for certification based on this two-point scale are explicated in this bulletin.)

11. At the conclusion of the assessment process, assessment teams shall provide all completed assessment forms and instruments with appropriate recommendations to the LEA assessment contact person, who in turn will file the instruments in the new teacher's single official file. The LEA contact person shall follow specified procedures to forward the results of assessment to the LDE.

12. The new teacher may file a response to the assessment as represented in the team summary report and supporting assessment records. This response shall be permanently attached to the team summary report.

13. Confidentiality of assessment results must be maintained as prescribed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §523. Assessment Criteria

A. The criteria for the assessment of new teachers are the Louisiana Components of Effective Teaching.

#### 1. Definitions

- a. In the Louisiana Components of Effective Teaching:

*Domain*—a major area of teaching responsibilities;

*Component*—a critical function within a domain;

*Attribute*—a behavior that relates to and helps to define a Component.

- b. The domains, components, and attributes form a hierarchy that represents skills and knowledge of effective teaching.

B. The Components of Effective Teaching may be reviewed as needed by the LDE, educators administering the assessment program, and appropriate consultants to determine need for modifications and their continuing utility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§525. Assessment Standards for Certification**

A. The assessment standards for certification recommended by a Standards Setting Panel convened by the state Superintendent of Education in June, 1994, adopted by the BESE in the same month, and revised in Spring 2004 are:

1. achievement of a "competent", "2" rating on 11 components of the *Louisiana Components of Effective Teaching*.

B. A teacher who does not meet this standard during semester two of employment in Louisiana public schools may be re-employed by the local school system for a third semester, during which time the teacher shall again participate in the Teacher Assistance and Assessment Program. This second assessment period shall be treated as a second opportunity to meet the assessment standards for certification. No data or ratings from the first assessment period shall be used in determination of the teacher's ratings during this second year. Only the information from the Professional Growth Plan will be used during the second assessment period to assist the teacher.

C. Failure of the teacher to meet the assessment standards for certification during the third semester of assistance and assessment shall result in a prohibition to teach in Louisiana public schools for a period of at least two years. During this period, the individual should complete the Professional Growth Plan formulated with the assessment team at the conclusion of the second assessment period.

D. To reapply for entry into the assistance and assessment program after absence from teaching due to failure to meet the assessment standards for certification, a teacher must document to the employing school system and the Department of Education that the last Professional Growth Plan outlined by/with the previous support/assessment team has been completed to the extent possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§527. Assessment Team Assignments**

A. The new teacher shall be assessed by a team of two highly qualified, trained experienced educators. This team shall consist of the immediate supervisor (principal or designee) and an assessor external to the building who meets the qualifications defined in the following paragraphs. Each team member will each conduct one visit to the new teacher's classroom during the assessment semester. The requirements for selection as a team member are outlined below.

1. Immediate Supervisor

a. Usually the new teacher's principal or principal's designee. In some unique situations, the immediate supervisor may be a director of vocational education, special education supervisor, or person in another position to whom the new teacher directly reports.

NOTE: Immediate supervisors may share responsibilities when large numbers of new teachers are to be assessed at a single school, or when trained assessors are not available.

2. External Assessor

a. The external assessor can be appointed from the ranks of five specific groups of educators:

i. faculty members in colleges/departments of education and other colleges/departments who have training, experience, and teaching assignments in pedagogy and teacher education;

ii. experienced teachers currently employed within the LEA but outside the new teacher's school who:

(a). have a minimum of three years of experience (five years suggested);

(b). ideally, possess training and experience in the content fields/grade levels taught by the new teacher;

NOTE: It will not always be possible to obtain a teacher for the team who is currently serving at exactly the same grade level. Therefore, this requirement is interpreted to mean that a teacher assigned to a new kindergarten teacher shall have training or experience at this level and be teaching currently in grades Pre-K through 2. Teachers in grades 3 through 5 shall be eligible to serve as assessors for new teachers in those grades. Teachers representing appropriate content areas in grades 5 through 8 can be assigned to teams for new teachers serving at any of those grade levels. Teachers in grades 9 through 12 can be assigned to teams in their content field(s) at any of those grade levels. Teachers who serve as assessors of new special education teachers should have experience within the special education area.

(c). ideally, possess a master's degree;

(d). qualified to serve as an assessor by virtue of exemplary teaching practice;

(e). selected by agreement of the principals of the two schools (assessor's school, new teacher's school);

(f). an experienced teacher should not be asked to serve as an assessor for more than two new teachers in a given year, unless the LEA makes provisions for that teacher to be released from an appropriate portion of his/her other responsibilities or unless extenuating circumstances prevail. The teacher has the option of refusing to take on the additional responsibilities;

iii. central office administrators (e.g., supervisors, directors of curriculum) with appropriate educational background and experience who are employed by the new teacher's LEA;

iv. retired teachers, administrators, or higher education faculty members nominated by teachers and administrators within the LEA. It is suggested that these individuals be retired no more than five years prior to becoming an assessor;

v. other educators as deemed appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§529. Instrumentation**

A. No single instrument is adequate for assessing teacher performance.

B. Assessment instruments must be developed from the criteria upon which teachers are to be assessed.

C. Instruments should be understood by all professional educators in the school system.

D. Instruments must assess the knowledge and skills considered important to effective teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§531. Data Collection**

A. In this Section the LEA will list the methods or tools that will be used to collect data during the assessment semester. Methods include, but may not be limited to:

1. formal interview with lesson plan;
2. observation;
3. professional growth plan;
4. supervisor's review;
5. designated school improvement artifacts or documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§533. Relationship to Other Existing Policies and Laws**

A. It is important to note that nothing contained in the Teacher Assistance and Assessment Program shall diminish the right of the local board, or of principals, or of other employees with supervisory responsibilities, to evaluate employees or to make employment decisions. The services of a teacher shall be considered the services of a fully certified teacher for all purposes of the local school system related to funding, calculation of minimum foundation funds, accreditation, or for any other purpose, administrative, substantive, or otherwise.

B. Participation in the Teacher Assistance and Assessment Program shall have no effect on the service of the teacher as it relates to entitlement to all benefits including retirement, accrual of leave time, progress on the salary schedule, and any other benefit calculation or consideration to which the teacher would otherwise be entitled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§535. Extenuating Circumstances**

A. The LEA should outline its plan for handling the assessment procedures should extenuating circumstances occur. Procedures shall include, but may not be limited to the following.

1. New teachers employed after an established date shall not enter the assistance and assessment program until the following semester/year.

2. If a new teacher is employed and reported by the specified dates, but is reassigned to a new school or a new subject/grade assignment after October 1 or February 1, the teacher shall not enter the first semester of the assistance and assessment program until the following semester.

3. If a new teacher who has completed the first semester of teaching is reassigned to a new school or a grade/subject greatly different from the previous assignment, the teacher may request a deferral. If the assessment is deferred, the new teacher shall be assessed the following semester.

4. If a new teacher does not complete either the first assistance semester or the assessment semester, the new teacher shall reenter the phase of the assessment program that was incomplete.

5. If a new teacher does not meet the assessment standards for certification at the end of the assessment semester, the teacher may request changes in the mentor and/or the assessment team for the second assessment semester.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§537. Reporting and Monitoring Results of Teacher Assistance and Assessment**

A. Identify and report to the LDE the names, positions, and the results of assessment of all new teachers subject to the Teacher Assistance and Assessment Program no later than the established date (New teachers employed after the established dates will begin the Assistance and Assessment Program in the following semester.);

B. The LDE shall annually monitor the conduct of the assistance and assessment procedures within the LEAs. The purpose of the monitoring process shall be to determine whether the program is being carried out in accordance to the provisions set forth by legislation, this bulletin, and the LEA. The method established for monitoring may include site visits, desk audits, and whatever method deemed appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§539. Incentives**

A. When and if the state makes additional funding for this program available, the Board and LDE shall determine, with input from schools/LEAs, how to best utilize those resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§541. Materials and Training**

A. The BESE shall establish the Louisiana Components of Effective Teaching. These Components and the Teacher Assistance and Assessment Program results shall be regularly reviewed with involvement of all segments of the education community and appropriate consultants. Necessary revisions shall be recommended to the BESE by June of each year.

B. The Department of Education shall provide and/or coordinate training, technical assistance, and materials for school districts as resources become available. Materials may include manuals or guides for new teachers, mentors, and assessors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

## **Chapter 7. Reporting and Monitoring**

### **§701. Annual Summary Reporting Format**

A. Each LEA will submit an annual personnel evaluation report to the Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Department of Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the LDE include, but are not limited to, the following items:

1. the number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily;

2. the number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily;

3. the number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance;

4. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (include the reasons for termination.);

5. the number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.);

6. the number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);

7. the number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results;

8. the number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results;

9. the number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel); and

10. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§703. Technical Assistance Program**

A. The LDE strives to provide assistance relative to particular problems that LEAs might encounter in the implementation of their personnel evaluation and assessment programs. Upon the request of a school district, the LDE will provide professional advice and assistance as resources permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§705. Monitoring LEA Personnel Evaluation Programs**

A. The Legislative mandate through R.S. 17:3883 (B)(5) requires the LDE to monitor programs of educational accountability when requested by the BESE as deemed necessary. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement regulations when the monitoring of an LEA program is requested by the state Board of Elementary and Secondary Education.

B. To assist in the operation of LEA personnel evaluation programs as formulated by the LEAs and submitted to the LDE, the LDE established the methodology to be used when monitoring is requested. The process that the LDE will use is described in the narrative below.

C. Purpose. The purpose of personnel evaluation monitoring is to determine whether the LEAs evaluation program has been implemented, to what extent it has been implemented, and whether it complies with the provisions of the shared accountability legislation. The monitoring is designed to attest to the assurance that the policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain the extent to which the LEA is, or is not, following through on the process designated in their plan. The LDE has established the following goals and objectives for the monitoring of LEA personnel evaluation.

#### 1. Goals:

a. to verify the implementation of R.S. 17:3883(B)(2) and R.S. 17:3883(B)(5);

b. to determine whether such programs have been implemented; and

c. to determine to what extent they have been implemented.

#### 2. Objectives:

a. to implement R.S. 17:3883(B)(2) and R.S. 17:3883(B), as requested;

b. to collect and compile data;

c. to document and analyze the implementation of the personnel evaluation plan;

d. to disseminate data to proper authorities at the conclusion of monitoring;

e. to maintain appropriate records/files of the monitoring process; and

f. to review and revise the monitoring as needed or requested by the BESE.

D. Procedures. Written notification will be provided to the LEAs prior to monitoring. The LDE team will function as a unit to monitor the LEA personnel evaluation program. Data will be collected, local personnel evaluation plans and evaluation records will be reviewed, and interviews may be completed as means of documentation. After monitoring has been completed, the LDE team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the state Superintendent of Education, the state Board of Elementary and Secondary Education, and the superintendent of the LEA.

E. The LDE team shall perform the following tasks when monitoring is deemed necessary:

1. notify the LEA superintendent and contact person and secure necessary preliminary documentation (e.g., the local personnel evaluation plan);

2. prepare a pre-monitoring report;

3. inform the superintendent or designee and other appropriate personnel of the monitoring method and timelines to be observed when monitoring is being conducted;

4. collect and compile the data by one or more of the means listed below:

a. a pre-monitoring conference (LDE team);

b. a review of the pre-monitoring report with the contact person and/or other appropriate personnel; and

c. a determination by the LDE team of the compliance or failure to comply through desk audits and/or on-site visits, completion of interviews, and/or viewing records;

5. review the LEA's personnel evaluation program; check the areas of the LEA's personnel evaluation programs including the following elements:

a. the method of dissemination for the personnel evaluation program plans;

b. the method of documenting the achievement of the purposes of the LEA personnel evaluation program;

c. the accuracy of the evaluators/observers listed in Accountability Relationships;

d. the assurance that all certified and other professional personnel are included in the evaluation process;

e. the development of professional growth plans by all of the evaluatees;

f. the implementation of stated observation procedures;

g. the implementation of stated evaluation procedures;

h. the verification of the evaluatees' knowledge of evaluation criteria;

i. the verification of the dissemination of job descriptions; and

j. the verification of necessary intensive assistance schedules;

6. conduct a post-monitoring conference; conduct a "close-out" session with the LEA superintendent, contact person, and/or appropriate personnel;

7. inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations;

8. provide assistance to the LEA in developing a plan of action to strengthen any noncompliance areas of the LEA's plan;

9. plan for and conduct follow-up monitoring as necessary to determine implementation status of the plan of action;

10. notify the BESE of the LEA's compliance status; and

11. make recommendations to the BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

## Chapter 9. Appendices

### §901. Appendix A—Louisiana Components of Effective Teaching

#### Domain I. Planning

Planning is an important aspect of the teaching/learning process.

Component A. The teacher plans effectively for instruction.

Attributes:

1. specifies learner outcomes in clear, concise objectives. It is not necessary to specify different objectives for each child or groups of children;

2. includes activity/activities that develop objectives. A required number of activities is not specified because this decision must be made by the teacher;

3. identifies and plans for individual differences. It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-observation interview;

4. identifies materials, other than standard classroom materials, as needed for lesson. Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.;

5. states method(s) of evaluation to measure learner outcomes. Evaluation may be formal or informal;

6. develops an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) as needed for the lesson\*. The Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) will meet state regulations.

\* For special education teachers only.

#### Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. organizes available space, materials, and/or equipment to facilitate learning;

2. promotes a positive learning climate.

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. manages routines and transitions in a timely manner;

2. manages and/or adjusts allotted time for activities planned.

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. establishes expectations for learner behavior;

2. uses monitoring techniques to facilitate learning. This may include reinforcing positive behavior, redirecting disruptive behavior, as well as other methods.

#### Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom.

Component A. The teacher delivers instruction effectively.

Attributes:

1. uses technique(s) which develop(s) lesson objective(s). Technique(s) may include teacher-directed activity/activities or student-centered activity/activities;

2. sequences lesson to promote learning. Sequencing means that the teacher initiates, develops, and closes the lesson with continuity;

3. uses available teaching material(s) to achieve lesson objective(s);

4. adjusts lesson content when appropriate;

5. the teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. presents content at a developmentally appropriate level. The teacher is knowledgeable of the content and relates it to the abilities and interests of the students;
2. presents accurate subject matter;
3. relates relevant examples, unexpected situations, or current events to the content.

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. accommodates individual differences. The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification;
2. demonstrates ability to communicate effectively with students;
3. stimulates and encourages higher-order thinking at the appropriate developmental levels;
4. encourages student participation.

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. consistently monitors ongoing performance of students;
2. uses appropriate and effective assessment techniques. Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal;
3. provides timely feedback to students;
4. produces evidence of student academic growth under his/her instruction.

#### **Domain IV. Professional Development**

The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development. These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

NOTE: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development. The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V.

Attributes:

1. identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan;
2. seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them.

NOTE: Component B specifications apply only to new teachers.

#### **Domain V. School Improvement**

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. participates in grade level and subject area curriculum planning and evaluation;
2. implements school improvement plan at the classroom level;
3. serves on task force(s) and/or committees.

NOTE: Component A, attributes 1 and 2 apply only to new teachers. Attribute 3 applies to experienced teachers only.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning;
2. encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom;
3. seeks community involvement in instructional program.

#### **Louisiana Components of Effective Teaching for Special Education-II**

Field and Pilot tests of the Louisiana Teacher Assessment Program revealed that some of the Component, Attribute, and performance specifications needed to be modified to fit the instruction of certain groups of special education students (i.e., students described as having significant disabilities). While the conceptualizations of teacher knowledge and skills embodied in the original Components list capture the essence of effective instruction, their description and the conditions under which they occur are quite different in certain special education settings.

##### **Domain I. Planning**

Planning is an important aspect of the teaching/learning process.

Component A. The teacher plans effectively for instruction.

Attributes:

1. specifies learner outcomes in clear, concise objectives;
2. includes activity/environments that develop objectives;
4. identifies materials/ equipment/ resources/ adaptations, other than standard classroom materials, as needed for lesson/activity;
5. states method(s) of evaluation to measure learner outcomes;
6. develops/implements an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP), when appropriate.

##### **Domain II. Management**

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. organizes available space, materials, and/or equipment to facilitate learning;
2. promotes a positive learning climate;
3. promotes a healthy, safe environment.

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. manages routines and transitions in a timely manner;
2. manages and/or adjusts allotted time for activities and provision of auxiliary services.

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. establishes expectations for learner behavior;
2. uses monitoring techniques to facilitate learning.

##### **Domain III. Instruction**

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom.

Component A. The teacher delivers instruction effectively.

Attributes:

1. uses technique(s) which develop(s) lesson/activity objective(s);
2. sequences lesson/activity to promote student learning/development;
3. uses available teaching material(s), equipment, and environment to achieve lesson/activity objective(s);

4. adjusts lesson/activity/content when appropriate;
5. the teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. presents functional content appropriate to the learners' capacities;
2. presents relevant subject matter/curriculum content in appropriate settings;
3. illustrates applications of content through examples, unexpected situations, and other means.

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. accommodates individual differences;
2. demonstrates ability to communicate effectively with students;
3. stimulates and encourages independent performance and optimal levels of thinking;
4. promotes student participation.

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. consistently monitors ongoing performance of students;
2. uses assessment techniques effectively;
3. provides timely feedback to students, caregivers, parents, and appropriate professional personnel regarding student progress;
4. produces evidence of student academic growth under his/her instruction.

#### **Domain IV. Professional Development**

The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

NOTE: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan;
2. seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them.

NOTE: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

#### **Domain V. School Improvement**

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. participates in grade level and subject area curriculum planning and evaluation;
2. implements school improvement plan at the classroom level;
3. serves on task force(s) and/or committees.

NOTE: Component A, attributes 1 and 2 apply only to new teachers. Attribute 3 applies to experienced teachers only.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning;
2. encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom;
3. seeks community involvement in instructional program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§903. Appendix B—Performance Expectations and Indicators for Education Leaders**

#### **PERFORMANCE EXPECTATION 1:**

Vision, Mission, and Goals

Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

Dispositions exemplified in Expectation 1:

Education leaders believe in, value, and are committed to:

1. every student learning;
2. collaboration with all stakeholders;
3. high expectations for all;
4. examining assumptions and beliefs;
5. continuous improvement using evidence.

Narrative:

Education leaders are accountable and have unique responsibilities for developing and implementing a vision of learning to guide organizational decisions and actions. Education leaders guide a process for developing and revising a shared vision, strong mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities.

The vision, mission, and goals represent what the community intends for students to achieve, informed by the broader social and policy environment and including policy requirements about specific outcomes and continuous improvement. The vision, mission, and goals become the touchstone for decisions, strategic planning, and change processes. They are regularly reviewed and adjusted, using varied sources of information and ongoing data analysis.

Leaders engage the community to reach consensus about vision, mission, and goals. To be effective, processes of establishing vision, mission, and goals should incorporate diverse perspectives in the broader school community and create consensus to which all can commit. While leaders engage others in developing and implementing the vision, mission, and goals, it is undeniably their responsibility to advocate for and act to increase equity and social justice.

Element A. High Expectations for All

The vision and goals establish high, measurable expectations for all students and educators.

Indicators. A leader:

1. uses varied sources of information and analyzes data about current practices and outcomes to shape a vision, mission, and goals with high, measurable expectations for all students and educators;
2. aligns the vision, mission, and goals to school, district, state, and federal policies (such as content standards and achievement targets);
3. incorporates diverse perspectives and crafts consensus about vision, mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities;

4. advocates for a specific vision of learning in which every student has equitable, appropriate, and effective learning opportunities and achieves at high levels.

Element B. Shared Commitments to Implement the Vision, Mission, and Goals

The process of creating and sustaining the vision, mission, and goals is inclusive, building common understandings and genuine commitment among all stakeholders.

Indicators. A leader:

1. establishes, conducts, and evaluates processes used to engage staff and community in a shared vision, mission, and goals;

2. engages diverse stakeholders, including those with conflicting perspectives, in ways that build shared understanding and commitment to vision, mission, and goals;

3. develops shared commitments and responsibilities that are distributed among staff and the community for making decisions and evaluating actions and outcomes;

4. communicates and acts from shared vision, mission, and goals so educators and the community understand, support, and act on them consistently;

5. advocates for and acts on commitments in the vision, mission, and goals to provide equitable, appropriate, and effective learning opportunities for every student.

Element C. Continuous Improvement toward the Vision, Mission, and Goals

Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

Indicators. A leader:

1. uses or develops data systems and other sources of information (e.g., test scores, teacher reports, student work samples) to identify unique strengths and needs of students, gaps between current outcomes and goals, and areas for improvement;

2. makes decisions informed by data, research, and best practices to shape plans, programs, and activities and regularly review their effects;

3. uses data to determine effective change strategies, engaging staff and community stakeholders in planning and carrying out changes in programs and activities;

4. identifies and removes barriers to achieving the vision, mission, and goals;

5. incorporates the vision and goals into planning (e.g., strategic plan, school improvement plan), change strategies, and instructional programs;

6. obtains and aligns resources (such as learning technologies, staff, time, funding, materials, training, and so on) to achieve the vision, mission, and goals;

7. revises plans, programs, and activities based on systematic evidence and reviews of progress toward the vision, mission, and goals.

## **PERFORMANCE EXPECTATION 2:**

Teaching and Learning

Education Leaders ensure achievement and success of all students by monitoring and continuously improving teaching and learning.

Dispositions exemplified in Expectation 2:

Education leaders believe in, value, and are committed to:

1. learning as the fundamental purpose of school;
2. diversity as an asset;
3. continuous professional growth and development;
4. lifelong learning;
5. collaboration with all stakeholders;
6. high expectations for all;
7. student learning.

Narrative

A strong, positive, professional culture fosters learning by all educators and students. In a strong professional culture, leaders share and distribute responsibilities to provide quality, effectiveness, and coherence across all components of the instructional system (such as curriculum, instructional materials, pedagogy, and student assessment). Leaders are responsible for a professional culture in which learning opportunities are targeted to the vision and goals and

differentiated appropriately to meet the needs of every student. Leaders need knowledge, skills, and beliefs that provide equitable differentiation of instruction and curriculum materials to be effective with a range of student characteristics, needs, and achievement.

A strong professional culture includes reflection, timely and specific feedback that improves practice, and support for continuous improvement toward vision and goals for student learning. Educators plan their own professional learning strategically, building their own capacities on the job. Leaders engage in continuous inquiry about effectiveness of curricular and instructional practices and work collaboratively to make appropriate changes that improve results.

Element A. Strong Professional Culture

A strong professional culture supports teacher learning and shared commitments to the vision and goals.

Indicators. A leader:

1. develops shared understanding, capacities, and commitment to high expectations for all students and closing achievement gaps;

2. guides and supports job-embedded, standards-based professional development that improves teaching and learning and meets diverse learning needs of every student;

3. models openness to change and collaboration that improves practices and student outcomes;

4. develops time and resources to build a professional culture of openness and collaboration, engaging teachers in sharing information, analyzing outcomes, and planning improvement;

5. provides support, time, and resources for leaders and staff to examine their own beliefs, values, and practices in relation to the vision and goals for teaching and learning;

6. provides ongoing feedback using data, assessments, and evaluation methods that improve practice;

7. guides and monitors individual professional development plans and progress for continuous improvement of teaching and learning.

Element B. Rigorous Curriculum and Instruction

Improving achievement of all students requires all educators to know and use rigorous curriculum and effective instructional practices, individualized for success of every student.

Indicators. A leader:

1. develops shared understanding of rigorous curriculum and standards-based instructional programs, working with teams to analyze student work, monitor student progress, and redesign curricular and instructional programs to meet diverse needs;

2. provides coherent, effective guidance of rigorous curriculum and instruction, aligning content standards, curriculum, teaching, assessments, professional development, assessments, and evaluation methods;

3. provides and monitors effects of differentiated teaching strategies, curricular materials, educational technologies, and other resources appropriate to address diverse student populations, including students with disabilities, cultural and linguistic differences, gifted and talented, disadvantaged social economic backgrounds, or other factors affecting learning;

4. identifies and uses high-quality research and data-based strategies and practices that are appropriate in the local context to increase learning for every student.

Element C. Assessment and Accountability

Improving achievement and closing achievement gaps require that leaders make appropriate, sound use of assessments, performance management, and accountability strategies to achieve vision, mission, and goals.

Indicators. A leader:

1. develops and appropriately uses aligned, standards-based accountability data to improve the quality of teaching and learning;

2. uses varied sources and kinds of information and assessments (such as test scores, work samples, and teacher judgment) to evaluate student learning, effective teaching, and program quality;

3. guides regular analyses and disaggregation of data about all students to improve instructional programs;



4. uses effective data-based technologies and performance management systems to monitor and analyze assessment results for accountability reporting and to guide continuous improvement;

5. interprets data and communicates progress toward vision, mission, and goals for educators, the school community, and other stakeholders.

**PERFORMANCE EXPECTATION 3:**

**Managing Organizational Systems and Safety**

Education leaders ensure the success of all students by managing organizational systems and resources for a safe, high-performing learning environment.

Dispositions exemplified in Expectation 3:

The education leader believes in, values, and is committed to:

1. a safe and supportive learning environment;
2. collaboration with all stakeholders;
3. equitable distribution of resources;
4. operating efficiently and effectively;
5. management in service of staff and student learning.

**Narrative**

Traditionally, school leaders focused on the management of a school or school district. A well-run school where buses run on time, the facility is clean, and the halls are orderly and quiet used to be the mark of an effective school leader. With the shift to leadership for learning, maintaining an orderly environment is necessary but not sufficient to meet the expectations and accountability requirements facing educators today.

Education leaders need a systems approach in complex organizations of schools and districts. In order to ensure the success of all students and provide a high-performing learning environment, education leaders manage daily operations and environments through efficiently and effectively aligning resources with vision and goals. Valuable resources include financial, human, time, materials, technology, physical plant, and other system components.

Leaders identify and allocate resources equitably to address the unique academic, physical, and mental health needs of all students. Leaders address any conditions that might impede student and staff learning, and they implement laws and policies that protect safety of students and staff. They promote and maintain a trustworthy, professional work environment by fulfilling their legal responsibilities, enacting appropriate policies, supporting due process, and protecting civil and human rights of all.

**Element A. Effective Operational Systems**

Leaders distribute leadership responsibilities and supervise daily, ongoing management structures and practices to enhance teaching and learning.

Indicators. A leader:

1. uses effective tools such as problem-solving skills and knowledge of strategic, long-range, and operational planning to continuously improve the operational system;
2. maintains the physical plant for safety, ADA requirements, and other access issues to support learning of every student;
3. litates communication and data systems that assure the timely flow of information;
4. oversees acquisition and maintenance of equipment and effective technologies, particularly to support teaching and learning;
5. distributes and oversees responsibilities for leadership of operational systems;
6. evaluates and revises processes to continuously improve the operational system.

**Element B. Aligned Fiscal and Human Resources**

Leaders establish an infrastructure for finance and personnel that operates in support of teaching and learning.

Indicators. A leader:

1. operates within budget and fiscal guidelines and directs them effectively toward teaching and learning;
2. allocates funds based on student needs within the framework of federal and state rules;
3. aligns resources (such as time, people, space, and money) to achieve the vision and goals;

4. implements practices to recruit and retain highly qualified personnel;

5. assigns personnel to address diverse student needs, legal requirements, and equity goals;

6. conducts personnel evaluation processes that enhance professional practice, in keeping with district and state policies;

7. seeks and secures additional resources needed to accomplish the vision and goals.

**Element C: Protecting the Welfare and Safety of Students and Staff**

Leaders ensure a safe environment by addressing real and potential challenges to the physical and emotional safety and security of students and staff that interfere with teaching and learning.

Indicators. A leader:

1. advocates for and creates collaborative systems and distributed leadership responsibilities that support student and staff learning and well-being;
2. involves parents, teachers, and students in developing, implementing, and monitoring guidelines and norms for accountable behavior;
3. develops and monitors a comprehensive safety and security plan.

**PERFORMANCE EXPECTATION 4:**

**Collaborating with Families and Stakeholders**

Education leaders ensure the success of all students by collaborating with families and stakeholders who represent diverse community interests and needs and mobilizing community resources that improve teaching and learning.

Dispositions exemplified in Expectation 4:

The education leader believes in, values, and is committed to:

1. high standards for all;
2. including family and community as partners;
3. respect for the diversity of family composition;
4. continuous learning and improvement for all.

**Narrative**

In order to educate students effectively for participation in a diverse, democratic society, leaders incorporate participation and views of families and stakeholders for important decisions and activities of schools and districts. Key stakeholders include educators, students, community members, and organizations that serve families and children.

Leaders recognize that diversity enriches and strengthens the education system and a participatory democracy. Leaders regard diverse communities as a resource and work to engage all members in collaboration and partnerships that support teaching and learning. Leaders help teachers communicate positively with families and make sure families understand how to support their children's learning. In communicating with parents and the community, leaders invite feedback and questions so that communities can be partners in providing the best education for every student.

**Element A. Collaboration with Families and Community Members**

Leaders extend educational relationships to families and community members to add programs, services, and staff outreach and provide what every student needs to succeed in school and life.

Indicators. A leader:

1. brings together the resources of schools, family members, and community to positively affect student and adult learning, including parents and others who provide care for children;
2. involves families in decision making about their children's education;
3. uses effective public information strategies to communicate with families and community members (such as email, night meetings, and written materials in multiple languages);
4. applies communication and collaboration strategies to develop family and local community partnerships;
5. develops comprehensive strategies for positive community and media relations.

**Element B. Community Interests and Needs**

Leaders respond and contribute to community interests and needs in providing the best possible education for their children.

Indicators. A leader:

1. identifies key stakeholders and is actively involved within the community, including working with community members and groups that have competing or conflicting perspectives about education;
2. uses appropriate assessment strategies and research methods to understand and accommodate diverse student and community conditions and dynamics;
3. seeks out and collaborates with community programs serving students with special needs;
4. capitalizes on diversity (such as cultural, ethnic, racial, economic, and special interest groups) as an asset of the school community to strengthen educational programs;
5. demonstrates cultural competence in sharing responsibilities with communities to improve teaching and learning.

#### Element C. Building on Community Resources

Leaders maximize shared resources among schools, districts, and communities that provide key social structures and gathering places, in conjunction with other organizations and agencies that provide critical resources for children and families.

Indicators. A leader:

1. links to and collaborates with community agencies for health, social, and other services to families and children;
2. develops mutually beneficial relationships with business, religious, political, and service organizations to share school and community resources (such as buildings, playing fields, parks, medical clinics, and so on);
3. uses public resources and funds appropriately and effectively;
4. secures community support to sustain existing resources and add new resources that address emerging student needs.

#### PERFORMANCE EXPECTATION 5:

##### Ethics and Integrity

Education leaders ensure the success of all students by being ethical and acting with integrity.

Dispositions exemplified in Expectation 5:

The education leader believes in, values, and is committed to:

1. the common good over personal interests;
2. taking responsibility for actions;
3. ethical principles in all relationships and decisions;
4. modeling high expectations;
5. continuously improving knowledge and skills.

##### Narrative

Local and state education agencies and professional organizations hold educators to codes of ethics, with attention to personal conduct, fiscal responsibilities, and other types of ethical requirements. The Performance Expectations build on concepts of professional ethics and integrity and add an emphasis on responsibilities of leaders for educational equity and social justice in a democratic society. Education is the primary socializing institution, conferring unique benefits or deficits across diverse constituents.

Leaders recognize that there are existing inequities in current distribution of high-quality educational resources among students. Leaders remove barriers to high-quality education that derive from economic, social, cultural, linguistic, physical, gender, or other sources of discrimination and disadvantage. They hold high expectations of every student and assure that all students have what they need to learn what is expected. Further, leaders are responsible for distributing the unique benefits of education more equitably, expanding future opportunities of less-advantaged students and families and increasing social justice across a highly diverse population.

Current policy environments with high-stakes accountability in education require that leaders are responsible for positive and negative consequences of their interpretations and implementation of policies as they affect students, educators, communities, and their own positions. Politically

skilled, well-informed leaders understand and negotiate complex policies (such as high-stakes accountability), avoiding potential harm to students, educators, or communities that result from ineffective or insufficient approaches.

Ethics and integrity mean leading from a position of caring, modeling care and belonging in educational settings, personally in their behavior and professionally in concern about students, their learning, and their lives. Leaders demonstrate and sustain a culture of trust, openness, and reflection about values and beliefs in education. They model openness about how to improve learning of every student. They engage others to share decisions and monitor consequences of decisions and actions on students, educators, and communities.

#### Element A. Ethical and Legal Standards

Leaders demonstrate appropriate ethical and legal behavior expected by the profession.

Indicators. A leader:

1. models personal and professional ethics, integrity, justice, and fairness and expects the same of others;
2. protects the rights and appropriate confidentiality of students and staff;
3. behaves in a trustworthy manner, using professional influence and authority to enhance education and the common good.

#### Element B. Examining Personal Values and Beliefs

Leaders demonstrate their commitment to examine personal assumptions, values, beliefs, and practices in service of a shared vision and goals for student learning.

Indicators. A leader:

1. demonstrates respect for the inherent dignity and worth of each individual;
2. models respect for diverse community stakeholders and treats them equitably;
3. demonstrates respect for diversity by developing cultural competency skills and equitable practices;
4. assesses own personal assumptions, values, beliefs, and practices that guide improvement of student learning;
5. uses a variety of strategies to lead others in safely examining deeply held assumptions and beliefs that may conflict with vision and goals;
6. respectfully challenges and works to change assumptions and beliefs that negatively affect students, educational environments, and every student learning.

#### Element C. Maintaining High Standards for Self and Others

Leaders perform the work required for high levels of personal and organizational performance, including acquiring new capacities needed to fulfill responsibilities, particularly for high-stakes accountability.

Indicators. A leader:

1. reflects on own work, analyzes strengths and weaknesses, and establishes goals for professional growth;
2. models lifelong learning by continually deepening understanding and practice related to content, standards, assessment, data, teacher support, evaluation, and professional development strategies;
3. develops and uses understanding of educational policies such as accountability to avoid expedient, inequitable, or unproven approaches that meet short-term goals (such as raising test scores);
4. helps educators and the community understand and focus on vision and goals for students within political conflicts over educational purposes and methods;
5. sustains personal motivation, optimism, commitment, energy, and health by balancing professional and personal responsibilities and encouraging similar actions for others.

#### PERFORMANCE EXPECTATION 6: The Education System

Education leaders ensure the success of all students by influencing interrelated systems of political, social, economic, legal, and cultural contexts affecting education to advocate for their teachers' and students' needs.

Dispositions exemplified in Expectation 6:

The education leader believes in, values, and is committed to:

1. advocate for children and education;
2. influence policies;

3. uphold and improve laws and regulations;
4. eliminate barriers to achievement;
5. build on diverse social and cultural assets.

Narrative

Leaders understand that public schools belong to the public and contribute to the public good. They see schools and districts as part of larger local, state, and federal systems that support success of every student, while increasing equity and social justice. Leaders see education as an open system in which policies, goals, resources, and ownership cross traditional ideas about organizational boundaries of schools or districts. Education leaders advocate for education and students in professional, social, political, economic, and other arenas. They recognize how principles and structures of governance affect federal, state, and local policies and work to influence and interpret changing norms and policies to benefit all students. Professional relationships with a range of stakeholders and policymakers enable leaders to identify, respond to, and influence issues, public awareness, and policies. For example, local elections affect education boards and bond results, in turn affecting approaches and resources for student success. Educators who participate in the broader system strive to provide information and engage constituents with data to sustain progress and address needs. Education leaders in a variety of roles contribute special skills and insights to the legal, economic, political, and social well-being of educational organizations and environments.

Element A. Exerting Professional Influence

Leaders improve the broader political, social, economic, legal, and cultural context of education for all students and families through active participation and exerting professional influence in the local community and the larger educational policy environment.

Indicator. A leader:

1. facilitates constructive discussions with the public about federal, state, and local laws, policies, regulations, and statutory requirements affecting continuous improvement of educational programs and outcomes;
2. actively develops relationships with a range of stakeholders and policymakers to identify, respond to, and influence issues, trends, and potential changes that affect the context and conduct of education;
3. advocates for equity and adequacy in providing for students' and families' educational, physical, emotional, social, cultural, legal, and economic needs, so every student can meet educational expectations and policy goals.

Element B. Contributing to the Educational Policy Environment

Leaders contribute to policies and political support for excellence and equity in education.

Indicators. A leader:

1. operates consistently to uphold and influence federal, state, and local laws, policies, regulations, and statutory requirements in support of every student learning;
2. collects and accurately communicates data about educational performance in a clear and timely way, relating specifics about the local context to improve policies and inform progressive political debates;
3. communicates effectively with key decision makers in the community and in broader political contexts to improve public understanding of federal, state, and local laws, policies, regulations, and statutory requirements;
4. advocates for increased support of excellence and equity in education.

Element C. Policy Engagement

Working with policymakers informs and improves education policymaking and effectiveness of the public's efforts to improve education.

Indicators. A leader:

1. builds strong relationships with the school board, district and state education leaders, and policy actors to inform and influence policies and policymakers in the service of children and families;
2. supports public policies that provide for present and future needs of children and families and improve equity and excellence in education;

3. advocates for public policies that ensure appropriate and equitable human and fiscal resources and improve student learning;

4. works with community leaders to collect and analyze data on economic, social, and other emerging issues that impact district and school planning, programs, and structures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

**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 the 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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 130—Regulations for the  
Evaluation and Assessment of School Personnel**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy, *Bulletin 130: Regulations for the Evaluation and Assessment of School Personnel*, represents rules for existing policy that have been streamlined to allow districts more flexibility and autonomy. Upon approval, *Bulletin 130* will replace *Bulletin 1943: Policies and Procedures for Louisiana Teacher Assistance and Assessment* and *Bulletin 1525: Guidelines for Local Personnel Evaluation* in their entirety. It is assumed that there may be costs to provide revised training for assessors in 2010 and beyond, but it is not possible to project a cost because districts will be allowed flexibility in training delivery (i.e., online, face-to-face, school-based, etc.) Districts will have the option of using federal funding to support training programs, if it is deemed appropriate and/or necessary. There are no costs to state governmental units as a result of this policy change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy will have no effect on revenue collections at the state or local governmental level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy will result in no cost or economic benefit to persons directly affected or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy change will have no effect on competition or employment.

Beth Scioneaux  
Deputy Superintendent  
1005#017

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Agricultural Education (LAC 28: CXV.2373)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2373. Agricultural Education. This revision proposes to amend Bulletin 741 by adding CASE Animal Science, CASE Plant Science, Meat Processing, Veterinary Assistant II, and Woodworks courses to Agricultural Education course offerings. This action is in direct response to industry demands for workers trained in occupations related to meat processing, veterinary assistants, and woodworking.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**§2373. Agricultural Education**

A. The Agricultural Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	10-12	½-1
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience Elective I, II	9-12	½-3
Agriscience-Construction Technology	11-12	½-1
Agriscience-Leadership	9-12	½-1
Agriscience Power Equipment	11-12	½-1
Animal Science	11-12	1/2
Biotechnology in Agriscience	11-12	1
Canine Care and Training	9-12	½
CASE Animal Science	10-12	1
CASE Plant Science	10-12	1

Course Title(s)	Recommended Grade Level	Units
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Environmental Studies in Agriscience	11-12	1
Equine Science	11-12	½-1
Floristry	11-12	1
Forestry	11-12	½-1
Horticulture	11-12	½-1
Landscape Design, Construction and Maintenance	10-12	1
Meat Processing	11-12	1
Precision Instrumentation in Agriscience	10 12	½
Small Animal Care and Management	10-12	½-1
Veterinary Assistant	10-12	1
Veterinary Assistant II	11-12	1
Woodworks	10-12	1
Industry-Based Certifications		
NCCER Welding Technology I Agriscience	11-12	1-3
NCCER Carpentry in Agriscience	11-12	1-3
NCCER Electrical I Agriscience	11-12	1-3
NCCER Pipefitting in Agriscience	11-12	1-3

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:2386 (November 2008), LR 35:1875 (September 2009), LR 35:2747 (December 2009), LR 36:

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators—Agricultural Education**

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed amendment will incorporate CASE Animal Science, CASE Plant Science, Meat Processing, Veterinary Assistant II, and Woodworks courses into the Agricultural Education course offerings. It is estimated that there will be no additional implementation costs to state governmental units except for an estimated \$336 for printing the Bulletin 741 amendment in the *Louisiana Register* as a proposed rule and a final rule. It is unknown if there will be any additional costs to local governmental units. The LEA may choose to offer the new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer these new courses may need to purchase new textbooks, instructional materials or equipment. Each LEA will make its determination.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no estimated costs to directly affected persons or nongovernmental groups. Students will be benefited by having additional choices to fulfill the requirements for high school graduation, assisting them in entering the workforce, which will improve the economy.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Employers could have a larger, trained, and qualified pool from which to select employees.

Beth Scioneaux  
Deputy Superintendent  
1005#019

H.Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators—Career Options (LAC 28: CXV.2397)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2397. Career Options*. The Career Options policy was updated as required by Act 257 of the 2009 Legislative Session. It changes the name of the Five Year Plan to the Individual Graduation Plan. There will be no costs or savings to state or local governmental units.

**§2397. Career Options**

**A. Preparation for Choosing an Area of Concentration**

1. To prepare students for choosing a career option at the high school level, at least six activities which expose students to career and technical and academic fields of study shall be conducted at each grade level in grades six through eight during each school year. Such activities shall include career interest inventories and information to assist students in the career decision-making process and may include job shadowing, job mentoring, and job internships. The activities may also include field trips, guest speakers, community service activities, and uses of technology such as word processing, desktop production, computer-assisted drafting and graphics. Each school with grades six through eight shall maintain records of such activities.

2. By the end of the eighth grade, each student shall develop, with the input of his family, an Individual Graduation Plan. Such a plan shall include a sequence of courses which is consistent with the student's stated goals for one year after graduation. Each student's Individual Graduation Plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the Individual Graduation Plan for students in grades 8-12. Students shall be able to change from one major (area of concentration) to the other at the end of any school year.

3. School counselors or others designated by the school principal, or both, shall be responsible for the completion of the Individual Graduation Plan of each eighth grade student. The school counselors and others shall counsel each student with regard to high school graduation requirements and shall assist the student in developing his plan. The school counselors and others shall forward such plans to the appropriate high schools where such students shall attend.

4. During the ninth and tenth grades, each student shall pursue the rigorous core curriculum required by his school for his chosen major. The core curriculum shall include required coursework as established by BESE and appropriate elective courses.

**B. - D.2. . . .**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:183.1 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 31:1303 (June 2005), amended LR 36:

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators—Career Options**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The Career Options policy was updated as required by Act 257 of the 2009 Legislative Session. It changes the name of the Five Year Plan to the Individual Graduation Plan. There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be 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 costs or economic benefits to persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#022

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Foreign Languages (LAC 28: CXV.2345)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana*

*Handbook for School Administrators: §2345. Foreign Languages. The revision adds Greek and Chinese to the Foreign Language Program of Studies. This change was requested by schools teaching these subjects. The courses must be listed in Bulletin 741 to be included in the TOPS core.*

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 23. Curriculum and Instruction  
§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	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 273; R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators—Foreign Languages**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The revision to Section 2345 in *Bulletin 741: Louisiana Handbook for School Administrators* adds Greek and Chinese to the Foreign Language Program of Studies. There will be no costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be 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 costs or economic benefits to persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#018

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators—General Career and Technical Education  
(LAC 28: CXV.2377)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2377. General Career and Technical Education. The proposed amendment will delete a course offering, Java Programming, as a 1-credit course. The action is being proposed to update Career and Technical course offerings.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 23. Curriculum and Instruction  
§2377. General Career and Technical Education**

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
Consumer Finance and Banking	12	1
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2-1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3

Course Title(s)	Recommended Grade Level	Units
Digital Media II	11-12	1-3
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Journey to Careers	9	½-1
Oracle Internet Academy		
Database Design and Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Business Economics	11-12	1/2
Financial Services	11-12	1/2
Financial Planning	11-12	1/2
Ethics in Business	11-12	1/2
Insurance	11-12	1/2
Business in a Global Economy	11-12	1/2
Principles of Finance	11-12	1/2 – 1
Principles of Accounting	11-12	1/2
Managerial Accounting	11-12	1/2
Advanced Finance	11-12	1/2
Hospitality and Tourism Academy		
Principles of Hospitality and Tourism	11-12	1/2
Customer Service	11-12	1/2
Sports Entertainment and Event Management	11-12	1/2
Geography and World Cultures	11-12	1/2
Sustainable Tourism	11-12	1/2
Hospitality Marketing	11-12	1/2
Information Technology Academy		
Principles of Information Technology	11-12	1/2
Computer Networking	11-12	1/2
Web Design	11-12	1/2
Databases Design	11-12	1/2
Computer Systems	11-12	1/2
Introduction to Programming	11-12	1/2
Digital Video	11-12	1/2

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:1229 (July 2009), LR 35:2319 (November 2009), LR 35:2748 (December 2009), LR 36:

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision will amend the General Career and Technical Education course offerings to repeal Java Programming. It is estimated that there will be no additional implementation costs to state governmental units except for an estimated \$336 for printing the Bulletin 741 amendment in the *Louisiana Register* as a proposed rule and a final rule. It is unknown at this time if there will be any costs or savings to local governmental units. The LEAs may choose to update course offerings or other counseling brochures.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Secondary Career and Technical students will be the population affected by the rule change. This course has been replaced by more up-to-date courses which better accommodate the needs of industry, which ultimately will give students greater opportunities for employment.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will have no affect on competition and employment. Java Programming has been replaced by more up-to-date courses which better fit industry needs.

Beth Scioneaux  
Deputy Superintendent  
1005#020

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Technology Education (LAC 28: CXV.2385)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2385. Technology Education. This revision proposes to amend Bulletin 741 by

adding NCCER Industrial Maintenance and NCCER Insulating courses to Technology Education course offerings. This action is in direct response to industry demands for workers trained in occupations related to industrial maintenance and insulating.

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**§2385. Technology Education**

A. Technology Education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Wood Technology	10-12	1
Aerospace Engineering	11-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Wood Technology	9-12	1
Civil Engineering and Architecture	11-12	1
Communication/Middle School	6-8	-
Communication Technology	9-12	1
Computer Integrated Manufacturing	11-12	1
Construction/Middle School	6-8	-
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Digital Electronics	9-10	1
Energy, Power, and Transportation Technology	9-12	1
Engineering Design I, II	11-12	1
Engineering Design and Development	11-12	1
General Technology Education	9-12	1
Introduction to Engineering Design	8-12	1
Manufacturing Technology	9-12	1
Manufacturing Technology/Middle School	6-8	-
Marine Engineering	11-12	0.5
Materials and Processes	10-12	1
Modular Technology/Middle School	6-8	-
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Principles of Engineering	9-10	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Transportation Technology/Middle School	6-8	-
Welding Technology	10-12	1
Industry-Based Certifications		
Advanced Technical Drafting	10-12	1
Architectural Drafting	10-12	1
Basic Technical Drafting	9-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Industrial Maintenance	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Insulating	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Process Technician I, II	11-12	1



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:1229 (July 2009), LR 35:2323 (November 2009), LR 35:2747 (December 2009), LR 36:

#### 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.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Technology Education

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed amendment will incorporate NCCER Industrial Maintenance and NCCER Insulating courses into Technology Education course offerings. It is estimated that there will be no additional implementation costs to state governmental units except for an estimated \$336 for printing the Bulletin 741 amendment in the *Louisiana Register* as a proposed rule and a final rule. It is unknown if there will be any additional costs to local governmental units. The LEA may choose to offer the new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer these new courses may need to purchase new textbooks, instructional materials or equipment. Each LEA will make its determination.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by state/local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated costs to directly affected persons or nongovernmental groups. Students will be benefited by having

additional choices to fulfill the requirements for high school graduation. These courses will also provide a greater opportunity for students to pursue an Industry Based Certification, which in turn will assist them in entering the workforce, and ultimately improve the economy.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained, and qualified pool from which to select employees.

Beth Scioneaux  
Deputy Superintendent  
1005#021

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Nurse (LAC 28:CXXXI.411)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §411. School Nurse. This revision in policy is a correction for Bulletin 746. Previously Bulletin 746 listed renewal guidelines for a Type A ancillary School Nurse. A Type A ancillary School Nurse certificate is valid for life of continuous service, so therefore the renewal guidelines were listed in error. This revision of policy will eliminate that language.

#### Title 28

#### EDUCATION

##### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 4. Ancillary School Service Certificates Subchapter A. Child Nutrition Program Supervisor §411. School Nurse

- A. Type C School Nurse—valid for three years.
  1. Eligibility requirements:
    - a. current Louisiana licensure as a registered professional nurse; and
    - b. minimum of two years experience as a registered nurse.
  2. Renewal Guidelines. May be renewed once for a three year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.
- B. Type B School Nurse—valid for five years.
  1. Eligibility requirements:
    - a. current Louisiana licensure as a registered professional nurse; and
    - b. three years of experience as a Type C School Nurse.
  2. Renewal guidelines:
    - a. six semester hours earned in nursing, education, or other health-related subjects completed since the Type B certificate was issued; and
    - b. current Louisiana licensure as a registered professional nurse.
- C. Type A School Nurse—valid for life with continuous service.

1. Eligibility requirements:
  - a. current Louisiana licensure as a registered professional nurse;
  - b. baccalaureate degree in nursing or a health-related field from a regionally accredited college or university; and
  - c. five years experience as a certified Type B School Nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 35:

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Nurse**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

This revision in policy is a correction for Bulletin 746. Previously Bulletin 746 listed renewal guidelines for a Type A ancillary School Nurse. A Type A ancillary School Nurse certificate is valid for life of continuous service, so therefore the renewal guidelines were listed in error. This revision of policy will eliminate that language. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#023

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teaching Certificate (LAC 28:CXXXI.906 and 911)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §906. Procedures and Rules for Issuance of a Denied Certificate and §911. Procedures and Rules for Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents.* This revision in policy would specify the conditions candidates denied certification for criminal offenses and/or submission of fraudulent documentation must meet in order for the State Board to consider issuance of a certificate. The previous information that was in this policy did not clarify the steps someone would have to take to have the State Board consider issuance of a Louisiana teaching certificate. This revision in policy clearly outlines all steps required for the issuance of a teaching certificate if someone has a previous felony conviction or had previously submitted fraudulent documents for certification.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel  
Chapter 9. Actions Related to Criminal Offenses and/or the Submission of Fraudulent Documentation  
§906. Procedures and Rules for Issuance of a Denied Certificate**

A. Issuance will never be considered for teachers convicted of the following crimes: R.S. 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. Issuances of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction.

C. An applicant may apply to the board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for issuance of the certificate.

2. Provide each applicable item identified above in Section 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 and/or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for issuance and documentation provided. The board is not required to conduct a hearing and may summarily deny a request for issuance of certificate.

2. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented and/or accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. Any conviction will be given full faith and credit, and no testimony will be taken to refute the finding of the court. The written documentation provided prior to the hearing will also be considered.

3. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for issuance of a teaching certificate. The board further reserves the right to deny a request for issuance based upon the applicant's dishonesty in failing to disclose a prior criminal conviction and/or for falsifying academic records. (If the board denies issuance, the applicant must wait one year to re-apply.)

4. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be issued. Board staff shall notify the applicant of the board's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§911. Procedures and Rules for Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents**

A. Reinstatement will never be considered for teachers convicted of the following crimes: R.S. 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, 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 or from date of the submission of fraudulent documentation.

C. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions and/or submissions of fraudulent documentation. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for reinstatement of the certificate.

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 and/or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct an reinstatement hearing and may summarily deny a request for issuance/reinstatement.

2. If the board or its designees decide to conduct an reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented and/or accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. Any conviction will be given full faith and credit, and no testimony will be taken to refute the finding of the court. The written documentation provided prior to the hearing will also be considered.

3. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for

reinstatement of a teaching certificate. The board further reserves the right to deny a request for reinstatement based upon the applicant's dishonesty in failing to disclose a prior criminal conviction and/or for falsifying academic records. (If the board denies reinstatement, the applicant must wait one year prior to re-application.)

4. The committee of the board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board's action.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:

#### **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.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Teaching Certificate**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This revision in policy would specify the conditions candidates denied certification for criminal offenses and/or submission of fraudulent documentation must meet in order for the State Board to consider issuance of a certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#025

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel—VTIE, CTTIE, and CTTIE-1 Certificates (LAC 28:CXXXI.507 and 511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §507, VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines and §511, Process for Reinstating Lapsed CTTIE or VTIE Certificates*. There are limited career and technical course offerings at technical colleges and higher education institutions available to teachers. This policy revision will expand the options for Career and Technical Trade and Industrial Education (CTTIE) teachers to renew and upgrade their certificates by earning equivalent contact hours through approved coursework (e.g., online instructional modules) that are aligned to topics in career and technical policy. Current policy provides only one option for CTTIE personnel to acquire professional coursework for renewal/upgrade of an initial CTTIE certificate and reinstatement of a lapsed CTTIE certificate. CTTIE teachers are required to complete three semester hours of specific approved college coursework each year until a minimum number of required hours have been completed.

#### **Title 28**

#### **EDUCATION**

#### **Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel §507. VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines**

A. Holder must earn at least three semester hours or 45 contact hours in approved coursework each year until a minimum number of required semester hours or contact hours have been completed, as follows:

1. with no degree—fifteen semester hours or 225 contact hours;

2. with an associate degree—twelve semester hours or 180 contact hours;

3. with a baccalaureate degree—nine semester hours or 135 contact hours;

4. with a graduate degree—six semester hours or 90 contact hours;

5. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS)—three semester hours or 45 contact hours (New Instructor Workshop is not required.);

6. with three years of post-secondary teaching experience—three semester hours or 45 contact hours (must include the New Instructor Workshop);

7. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS) and three years of teaching experience—immediate CTTIE 2 certification.

B. The coursework must be completed from the following approved list:

1. new instructor workshop (mandatory for all instructors who do not hold a valid Louisiana teaching certificate and do not have three years of successful teaching experience);

2. foundations of vocational technical education;

3. preparation of vocational technical education instructional materials;

4. management of the vocational technical education classroom(s)/laboratory(ies);

5. occupational safety and health;

6. testing and evaluation in vocational technical education;

7. teaching special needs students in vocational technical education;

8. methods of teaching vocational technical education;

9. occupational analysis and course development;

10. ethics and diversity in the workplace/classroom;

11. computer technology in the classroom;

12. curriculum planning;

13. vocational guidance;

14. management of change;

15. basic theory in vocational education;

16. advanced theory in vocational education;

17. development of vocational teacher competency;

18. adolescent psychology;

19. other education pedagogy courses, including online courses, from accredited institutions. Must have prior approval from the Office of Career and Technical Education.

C. If a state or national license is required in the workplace, a current license must be held. A state or national license will be recognized as an industry-based certification.

D. Upon successful completion of the required hours, and upon written request, a VTIE or a CTTIE temporary certificate was converted to a permanent CTTIE certificate until June 30, 2006. After June 30, 2006, certificates for all holders of VTIE, CTTIE, and CTTIE-1 certificates who are completing the required hours will be converted to five year CTTIE-2 certificates upon written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 33:2356 (November 2007), LR 35:2753 (December 2009), LR 36:

### §511. Process for Reinstating Lapsed CTTIE or VTIE Certificates

A. If holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

B. To reinstate a CTTIE or VTIE certificate if a license is required in the workplace, holder must present evidence that he/she has a current state or national license. Holder must also present evidence that he/she earned six semester hours or 90 contact hours of credit in state-approved courses (see §507.B) during the five year period immediately preceding request for reinstatement.

C. If a license is not required in the workplace, to reinstate a CTTIE or VTIE certificate the holder must present evidence that he/she earned six semester hours or 90 contact hours of credit in state-approved courses (see §507.B) during the five year period immediately preceding request for reinstatement.

D. If holder did not earn the required six semester hours or 90 contact hours, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 35:2754 (December 2009), LR 36:

#### 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.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for  
State Certification of School Personnel—VTIE, CTTIE,  
and CTTIE-1 Certificates**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy revision will expand the options for Career and Technical Trade and Industrial Education (CTTIE) teachers to renew and upgrade their certificates by earning equivalent contact hours through approved coursework (e.g., online instructional modules) that are aligned to topics in career and technical policy. Current policy provides only one option for CTTIE personnel to acquire professional coursework for renewal/upgrade of an initial CTTIE certificate and reinstatement of a lapsed CTTIE certificate. CTTIE teachers are required to complete three semester hours of specific approved college coursework each year until a minimum number of required hours have been completed. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#024

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1566—Pupil Progression Policies and Procedures  
(LAC 28:XXXIX.Chapters 1-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: Chapters 1-11. The revision of Bulletin 1566 was done to simplify and reorganize the Bulletin. The appendices were eliminated and the content integrated into appropriate locations within the Bulletin. Repetitive information was deleted. Also, changes were made to the High Stakes Testing Policy as required by Act 276 of the 2009 Louisiana Legislative Session. Those changes involve providing a fourth grade transition program for students who meet certain requirements and limiting the time that students can be retained in the eighth grade due to failure of the LEAP test to one year.

**Title 28  
EDUCATION**

**Part XXXIX. Bulletin 1566—Pupil Progression  
Policies and Procedures**

Editor's Note: Bulletin 1566 was promulgated in LR 6:144 (April 1980), amended LR 11:685 (July 1985) and LR 16:766 (September 1990), promulgated LR 19:1417 (November 1993), amended LR 24:2081 (November 1998). Historical notes will reflect activity on individual Sections from November 1999 forward.

**Chapter 1. Purpose**

**§101. Foreword**

A. This publication represents a forward step in the implementation of a vital component of the Louisiana Competency-Based Education Program. These policies and procedures represent a cooperative effort of offices in the Louisiana Department of Education (DOE), and educators from across the state.

B. The DOE will continue to provide leadership and assistance to school systems in an effort to attain a public system of education that makes the opportunity to learn available to all students on equal terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 33:2061 (October 2007), LR 36:

**§103. Preface**

A. "The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

B. The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. This far-reaching statute called for:

1. the establishment of a program for shared educational accountability in the public educational system of Louisiana;
2. the provision for a uniform system of evaluation of the performance of school personnel;
3. the attainment of established goals for education;
4. the provision of information for accurate analysis of the costs associated with public educational programs;
5. the provision of information for an analysis of the effectiveness of instructional programs; and
6. the annual assessment of students based on state content standards.

C. The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its

students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

D. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4(F) and (G)(1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain tests as determined by the state Board of Elementary and Secondary Education (BESE) for student promotion and to provide guidance relative to the content of pupil progression plans.

E. The amended Sections relate state content standards adopted for mathematics, English language arts, science, and social studies, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive pupil progression plans of each of the local educational agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 33:2061 (October 2007), LR 36:

### **Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan**

#### **§301. Development of a Local Plan**

##### **A. Committee of Educators**

1. The state Board of Elementary and Secondary Education (BESE) and the DOE require assurances that the local education agency (LEA) Supervisors of Elementary and Secondary Education, Special Education, Career and Technical Education, Adult Education, Title I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish pupil progression plan.

##### **B. Committee of Parents**

1. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the pupil progression plan. Opportunities shall be provided for parents to have input into the development of the local plan.

2. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

3. The local board shall provide staff support to the parent committee.

C. The LEA shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2170 (November 1999), amended LR 36:

#### **§303. Adoption Procedures**

##### **A. Initial Adoption by the Local School Board**

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meeting Law.

2. The local pupil progression plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan has been adopted and approved, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statements defining the committee-selection process and the pupil progression plan are public documents that must be handled within the guidelines of the Public Records Act.

##### **B. Locally Initiated Interim Revisions**

1. LEAs will comply with the same procedure as for initial adoption by the local school board.

##### **C. State Mandated Interim Revisions**

1. School systems will be notified of any policy change that will affect their currently approved pupil progression plan within 15 working days after the Notice of Intent is passed by BESE.

2. LEAs shall develop a procedure for informing the public of the proposed policy change.

3. After final adoption as a rule by BESE, school boards shall adopt and incorporate the state mandated policy changes into their current pupil progression plan within 30 working days after notification of said changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 42:4:2(A)(2); R.S. 44:1-42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:188 (February 2001), LR 27:1517 (September 2001), LR 36:

#### **§305. Submission Process**

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval and locally initiated revisions (including dates and locations) must be submitted.

1. Interim Revisions: Locally-initiated and state-mandated.

a. Resubmission of the local board approved pages is made to the DOE.

b. Signatures of the local school board president and superintendent are required.

c. The revisions are incorporated into the pupil progression plan at both the local and state level.

2. BESE shall certify that the plan includes the requirements for students promoted to high school in the career diploma pathway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:64 (January 2000), 27:1517 (September 2001), LR 36:



## Chapter 5. Placement Policies—General Requirements

### §501. State Requirements

A. Each local pupil progression plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these policies and procedures.

B. Based upon local school board policy pursuant to these policies and procedures, each teacher shall, on an individualized basis, determine promotion or placement of each student. Local school board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws.

C. No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his/her teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:414.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 3:2062 (October 2007), LR 36:

### §503. Regular Placement

#### A. Promotion—Grades K-12

1. Promotion from one grade to another for regular students and students with disabilities shall be based on the following statewide evaluative criteria.

a. Each plan shall include the school attendance requirements.

b. Each plan shall include the course requirements for promotion by grade levels.

c. Each plan shall include the requirements for entering the career diploma pathway, including the requirements listed below.

i. The plan shall include requirements for students promoted to the ninth grade career diploma pathway who have not met the LEAP promotional standard for entering the ninth grade. The requirements should include the following.

(a). The student must successfully complete the LEAP summer remediation program in the subject area of the component of the eighth grade LEAP test on which they scored at the *Unsatisfactory* level and must take the summer retest.

(b). The student must have achieved a minimum cumulative grade point average of 1.5 on a 4.0 scale for course work required for completion of the eighth grade.

(c). Acceptable Attendance Standards. For the 2009-2010 school year, students must meet the attendance requirements in the pupil progression plan. For 2010-2011 and following, students must meet the state minimum attendance requirements to be eligible to receive grades.

(d). Acceptable Behavior Standards. Students must meet the behavior requirements in the pupil progression plan.

(e). A student must participate in a dropout prevention and mentoring program during his first year in high school as approved by the BESE. Acceptable programs include research based dropout prevention programs such as Jobs for America's Graduates Multi-Year Program, Graduation Coach Program, or the school district may submit a proven effective, research-based dropout prevention and mentoring program other than the two listed above to the DOE for approval by BESE. All programs must include the following components:

(i) an academic catch up component to address the all area(s) of student deficiency;

(ii) an adult mentoring component with an emphasis on workforce awareness and readiness;

(iii) a work awareness and work readiness skills component;

(iv) a work-based learning component such as job shadowing/job exploration/paid internships.

ii. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the Career Diploma Participation Form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

d. Each plan shall include other applicable requirements, including the High Stakes policy requirements for entering students in fifth or ninth grade.

#### B. Requirements for High School Students

1. Each plan shall include the following statements, that:

a. for incoming freshmen prior to 2010-2011, in addition to completing the required minimum number of 23 Carnegie units of credit as presented by BESE, the students must pass the required components of the Graduation Exit Examination (GEE) in order to receive a high school diploma;

b. for incoming freshmen in 2010-2011 and beyond, in addition to completing the required minimum number of Carnegie units of credits as presented by BESE, students must pass the required End-of-Course tests to receive a high school diploma;

c. any student who is at least 15 years of age or will attain the age of 15 during the next school year, who scored at least at the *Approaching Basic* level on either the English language arts or mathematics component of the eighth grade LEAP test, and meets the criteria established in the pupil progression plan of the LEA where the student is enrolled, may be promoted to the ninth grade for the purpose of pursuing a career diploma;

d. any student entering the ninth grade having scored *Unsatisfactory* in math or English on the eighth grade LEAP test on the eighth must enroll in and pass a high school remedial course approved by BESE in the *Unsatisfactory* subject (English language arts or mathematics) before earning Carnegie credit for any other English or mathematics course.



### C. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these policies and procedures.

### D. Acceleration

#### 1. Grades K-8

a. The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

#### 2. Grades 9-12

a. The local school board shall follow the policies and procedures established in *Bulletin 741—Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

### E. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, both in and out-of-state, and foreign countries).

a. Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school (state approved and unapproved), any home schooling program or Louisiana resident transferring from any out-of-state school shall be required to pass the English language arts and Mathematics portions of the LEAP placement test.

b. Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 2000), amended LR 26:1433 (July 2000), LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:

### §505. Other Placement Requirements

A. Progression—Students Participating in LEAP Alternate Assessment (LAA1) or LEAP Alternate Assessment Level 2 (LAA2)

1. Students with disabilities who participate in the LEAP Alternate Assessments (LAA1 or LAA2) shall have promotion decisions determined by the School Building Level Committee.

### B. Alternative Schools/Programs

1. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

### C. Review of Placement

1. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian.

2. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan.

### D. Due Process

1. Due process procedures for teachers, students, and parents shall be specified in each local pupil progression plan as related to student placement. The LEA must assure

that these procedures do not contradict the due process rights of students with disabilities as defined in the IDEA-Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 36:

### §507. Records and Reports

A. LEAs shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

B. Student records for the purposes of these guidelines shall include:

1. course grades;

2. scores on LEAP;

3. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

4. information (or reason) for student placement (see definition of *placement*);

5. documentation of results of student participation in remedial and alternative programs;

6. special education documents as specified in the approved IDEA-Part B, LEA application;

7. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program;

8. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 36:

### §509. Local Options

A. In addition to the statewide mandatory criteria for student placement, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Chapter 5, §501 and shall be submitted to the LDE as part of the local pupil progression plan.

B. At the option of local school systems, the plans may include other factors to be considered in pupil placements.

C. In conjunction with the enumerated legislated policies and DOE directives, LEAs may include evaluative criteria in their local pupil progression plans. If other criteria are used, the pupil progression plan must so specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 36:

### §511. Legislative Guidelines

A. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use.

B. Local criteria for K-12 must supplement the content standards approved by the BESE.

C. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17; R.S. 17:24.4; R.S. 17:391.7(G).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 36:

### §513. Local Testing Programs

A. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

B. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 36:

## Chapter 7. High Stakes Testing Policy

### §701. Promotion Standard

A. A student who is a first-time fourth or eighth grader must score at or above the *Basic* achievement level on the English Language Arts or Mathematics components of the LEAP and at or above the *Approaching Basic* achievement level on the other (hereafter referred to as the passing standard) to be promoted to the fifth or ninth grade.

1. Exceptional students participating in LEAP must be provided with accommodations as noted in the students' IEPs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §703. Retention

A. The decision to retain a student in the fourth or eighth grade more than once as a result of his/her failure to achieve the passing standard on the English language arts and mathematics components of LEAP shall be made by the LEA in accordance with the local pupil progression plan which shall include the following.

B. LEAs shall provide a fourth grade transitional program for students meeting the minimum criteria.

1. The purpose of a fourth grade transitional program is to provide a class setting to students who have demonstrated the ability to benefit from a combination of intensive fourth grade remedial work and fifth grade regular coursework. Students in the transitional program may be able to progress to the sixth grade the following year.

2. Minimum criteria for placement into a fourth grade transitional program:

a. the student must score at the *Approaching Basic/Approaching Basic* achievement level on the English language arts and mathematics components of LEAP;

b. the student must have met all requirements for promotion from the fourth grade as outlined in the local pupil progression plan; and

c. the student must participate in both the summer remediation program offered by the LEA and the summer retest.

3. Minimum criteria for promotion to the sixth grade from a fourth grade transitional program:

a. the student must be provided remediation in the subject area(s) on which the student scored below *Basic* on LEAP as well as instruction in the fifth grade curriculum;

b. the student must score a minimum of *Basic/Approaching Basic* on English language arts and math and a minimum of *Approaching Basic/Approaching Basic* on the science and social studies on the fourth grade LEAP; and

c. the student must have met all requirements for promotion from the fifth grade as outlined in the local pupil progression plan.

C. A student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the local pupil progression plan.

D. Students who are repeating the eighth grade due to failure to achieve the passing standard on the eighth grade LEAP may take high school courses except any in a content area in which they scored *Unsatisfactory* on the eighth grade LEAP. These students may be housed on a high school campus or a middle school campus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §705. Supports for Students

#### A. Remediation

1. LEAs shall offer, at no cost, a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics to students who did not take the spring LEAP tests or who failed to meet the passing standard. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

2. Students are not required to attend summer remediation to be eligible for the summer retest.

3. Student with disabilities attending summer remediation shall receive special supports as needed.

4. Students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend the LEAP summer remediation programs.

5. Students with disabilities who participate in LEAP Alternate Assessment, Level 2 (LAA2), are eligible to attend LEAP summer remediation programs.

#### B. School Year Support

1. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the passing standard, as well as for students who were retained in grades 4 or 8.

2. In order to move students toward grade level performance, LEAs shall design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the passing standard, and for fourth and eighth grade students being retained. The purpose of the additional instructional strategies is to move the students to grade-level proficiency by providing the following:

a. focused instruction in the subject area(s) on which a student scored at the *Approaching Basic* and/or *Unsatisfactory* level on iLEAP;

b. focused remediation for those fourth and eighth grade students repeating the grade as a result of failing to achieve the passing standard in ELA and/or math on the LEAP;

c. ongoing instruction in the core subject areas using curricula based on state-level content standards and the grade-level expectations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§707. Exceptions to High Stakes Policy**

A. **Mastery/Advanced Waiver.** The LEA may waive the state policy for students scoring at the *Unsatisfactory* level in English language arts or mathematics, if the student scores at the *Mastery* or *Advanced* level in the other, provided that:

1. the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

2. the student has participated in both the spring and summer administrations of LEAP and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the *Unsatisfactory* level during the spring test administration); and

3. parental consent is granted.

B. **U/B Waiver—Eighth Grade.** The LEA may waive the state policy for eighth grade students scoring at the *Unsatisfactory* level in English language arts or mathematics, if the student scores at the *Basic* level in the other, provided that the following criteria are met:

1. the student scored *Approaching Basic* or above on the science and social studies components of LEAP;

2. the student had an overall 2.5 grade point average on a 4.0 scale;

3. the student had a minimum 92 percent attendance during the school year;

4. the decision is made in accordance with the local pupil progression plan, which may include a referral to the School Building Level Committee (SBLC);

5. the student has participated in both the spring and summer administrations of LEAP and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the *Unsatisfactory* level during the spring test administration); and

6. parental consent is granted;

7. if a student meets the criteria for this waiver, and is promoted with an *Unsatisfactory*, the student must enroll in and pass a high school remedial course in the *Unsatisfactory* subject before enrolling in or earning Carnegie credit for English or mathematics.

C. **AB/AB Waiver—Eighth Grade.** After the summer retest, an LEA, through its superintendent, may consider a waiver for an eighth grade student who has scored at the *Approaching Basic* level on both the English language arts and mathematics components of LEAP. The LEA may grant the waiver in accordance with the local pupil progression plan provided the following criteria are met.

1. The student has attended the LEAP summer remediation program offered by the LEA, and has taken the Summer retest of the component(s) (English language arts and/or mathematics) on which the student scored *Approaching Basic* or below on the spring test.

D. **Twenty Point Appeal—Fourth Grade.** After the summer retest, an LEA, through its superintendent, may consider granting a waiver on behalf of individual students, provided that all of the following criteria have been met.

1. The student's highest score in English language arts and/or mathematics on either the spring or summer LEAP must fall within 20 scaled score points of the cutoff score for *Basic*.

2. The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) for which the appeal is being considered.

3. The student must have attended the LEAP summer remediation program and have taken the LEAP retest.

4. The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program

5. The principal and the SBLC must review student work samples and attest that the student exhibits the ability to perform at or above the *Basic* achievement level in the subject for which the appeal is being considered.

E. **LEP Waiver.** Limited English Proficient (LEP) students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

F. **Extenuating Circumstances Waiver**

1. An LEA, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP testing or unable to attend LEAP summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

a. a physical illness or injury that is acute or catastrophic in nature;

b. a chronic physical condition that is in an acute phase;

c. court-ordered custody issues.

2. **Documentation**

a. *Physical Illness*—appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation.

b. *Custody Issues*—certified copies of the court-ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

3. **Student Eligibility/Retest Requirements**

a. Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court-ordered custody category related to LEAP; and

b. who are unable to participate in both the spring and the summer administration of LEAP; or

c. who failed to achieve the passing standard on the spring administration of LEAP English language arts and mathematics tests and are unable to participate in LEAP summer retest:

i. shall take the Iowa Tests for grade placement within 10 school days of returning to school, which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction;

ii. must score at or above the cutoff score on the selected form of the Iowa Tests for grade placement to be promoted to the fifth or ninth grade; and

iii. are not eligible for a retest. These students may be eligible for the other waivers in accordance with the local pupil progression plan;

d. students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court-ordered custody category related to LEAP; and

e. who are unable to participate in the spring testing and/or summer remediation, including the provision of remediation through hospital/home-bound instruction, are required to take the LEAP summer retest. These students may be eligible for the other waivers in accordance with the local pupil progression plan.

#### G. State-Granted Waiver

1. A local school superintendent, a parent or guardian, or the DOE may initiate a request for a state-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

2. The DOE will provide a report to BESE detailing state-granted waivers.

#### 3. Documentation

a. *LEA Error*—the LEA superintendent or parent must provide the State Superintendent of Education with school- and student-level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future.

b. *Other Unique Situations*—documentation must be provided to the State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted.

#### 4. Testing/Promotion Decisions

a. The DOE will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

#### H. Students with Disabilities

1. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessment, Level 1 (LAA1) or LEAP Alternate Assessment, Level 2 (LAA2), shall have promotion decisions determined by the SBLC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

## Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to LEAP

### §901. Preface

A. The regulations for remedial education programs approved by BESE provide for the development of local remedial education programs by local education agencies.

B. The DOE shall recommend for approval by the BESE only those local remedial education plans in compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 33:2063 (October 2007), LR 36:

### §903. Legal Authorization

A. R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced LEAP tests shall receive remedial education programs that comply with regulations adopted by BESE.

B. R.S. 17:394-400 is the established legislation for the remedial education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:394-400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 36:

### §905. Definition and Purpose

#### A. Definition

*Remedial Education Programs*—local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 4 and 8 and the GEE.

#### B. Purpose

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board pupil progression plans. A program of remedial education shall be put into place by LEAs following regulations adopted by the DOE and approved by BESE pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction.

2. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 4 and 8 and the GEE.

3. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the *Approaching Basic* or *Unsatisfactory* level on the LEAP English language arts and/or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

4. Remediation shall be provided to students who score at the *Unsatisfactory* level on the LEAP science and social studies tests.

5. Remediation is recommended for fourth and eighth grade students who score at the *Approaching Basic* level on the LEAP science or social studies tests.

6. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:395; R.S. 17:396; R.S. 17:397.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 28:1189 (June 2002), LR 30:409 (March 2004), LR 31:1975 (August 2005), LR 33:2063 (October 2007), LR 36:

#### **§907. Responsibilities of BESE**

A. BESE shall perform the following functions in relation to the remedial education program:

1. approve as a part of the *Pupil Progression Policies and Procedures* (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through LEAP in English language arts, written composition, mathematics, social studies and science for the GEE and English language arts, mathematics, science and social studies for LEAP;

2. approve remedial education programs submitted by LEAs as a part of their local pupil progression plan;

3. approve qualifications/certification requirements for remedial education teachers;

4. receive from the DOE an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400(B);

5. approve the evaluation criteria developed by the DOE for determining the effectiveness of remedial education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:398; R.S. 17:399; R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:2064 (October 2007), LR 36:

#### **§909. State Funding of Remedial Education Programs**

A. Remedial education funds shall be appropriated annually within the Minimum Foundation Program (MFP) formula.

B. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

C. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students. A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

D. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students.

E. For funding purposes, a student receiving remediation in English language arts, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed for the GEE and for English language arts and mathematics for LEAP.

F. Students in the remedial education program are also included in the student membership count for MFP funding purposes.

G. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

H. If the DOE determines through its monitoring authority that an LEA is not actually providing the type of remedial education program that was approved through its pupil progression plan or is not complying with state evaluation regulations, the DOE shall recommend appropriate action until such time as it is determined that the LEA is in compliance with its approved pupil progression plan and with state evaluation regulations.

I. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:398; R.S. 17:399.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:2064 (October 2007), LR 36:

#### **§911. Criteria for State Approval**

##### **A. Student Eligibility**

1. Any public elementary or secondary student, including a student with a disability participating in LEAP who does not meet the performance standards established by the DOE and approved by BESE, as measured by the state criterion-referenced tests, shall be provided remedial education.

2. The failure of students with disabilities to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs.

##### **B. Teacher Qualifications**

1. Remedial teachers shall possess the appropriate certification/qualifications as required by BESE.

2. LEAs may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

a. must be at least 20 years of age;

b. must possess a high school diploma or its equivalent; and

c. must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student.

3. LEAs may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties.

##### **C. Program Requirements**

###### **1. Student Profile**

a. The Remedial Education Student Profile for the LEAP GEE, provided by the DOE shall be used by the LEA for providing remediation for each eligible student.

###### **2. Coordination with Other Programs**

a. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction.

### 3. Instruction

a. For the GEE, remediation shall be provided in English language arts, mathematics, science, and social studies. Students shall be offered 50 hours of remediation each school year in each content area they do not pass.

b. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the *Approaching Basic* or *Unsatisfactory* level on the LEAP English language arts and/or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

c. Remediation shall be provided to students who score at the *Unsatisfactory* level on the LEAP science, and social studies tests.

d. Remediation is recommended for fourth and eighth grade students who score at the *Approaching Basic* level on the LEAP science or social studies tests.

e. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in the Louisiana Comprehensive Curriculum or local curricula that are based upon Louisiana content standards in mathematics, English language arts, science and social studies.

f. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program.

g. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need.

#### D. Student Assessment

1. The LEAs shall develop, as part of their pupil progression plans, mastery criteria based on the Louisiana content Standards, Grade-Level Expectations (GLEs), and local curricula based on these standards and GLEs.

2. For the GEE these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, written composition, mathematics, social studies, and/or science in which he/she was found deficient.

3. For LEAP, these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, mathematics, science and social studies.

4. LEAs shall describe the methods used to measure student achievement of these criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:395; R.S. 17:397; R.S. 17:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:189 (February 2001), LR 30:409 (March 2004), LR 31:1975 (August 2005), LR 33:2064 (October 2007), LR 36:

### **§913. Local Program Development and Evaluation**

A. Each LEA shall develop annually a remedial education program as part of its pupil progression plan, which complies with the established regulations adopted by the DOE and approved by BESE pursuant to R.S. 17.24.4.

B. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative that shall incorporate the following:

1. program objective;

2. student population to be served and the selection criteria to be used;

3. methodologies, materials, and/or equipment to be used in meeting the remediation needs;

4. brief description of the remedial course;

5. plan for coordination of state, federal, and local funds for remediation;

6. procedure for documenting student's and parent(s) refusal to accept remediation;

7. evaluation plan encompassing both the educational process and the growth and achievement evidenced of students.

C. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide content standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

D. Each LEA shall adhere to the remedial education plan as stated in its approved pupil progression plan and shall provide services accordingly.

E. Each LEA shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds.

F. Each LEA shall maintain a systematic procedure for identifying students eligible for remedial education.

G. Each LEA shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

H. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level.

I. Each LEA shall participate in the evaluation of the Remedial Education Program conducted by the DOE.

#### J. Evaluation

1. Each LEA shall complete an annual evaluation of its program, using the approved DOE guidelines, and shall submit the evaluation report to the State Superintendent by July 15 of each year. The evaluation plan shall include specific means to examine and document:

- a. student performance;
- b. coordination with other programs;
- c. instruction.

2. The evaluation shall be conducted as described in the local evaluation plan.

K. Annually, prior to October 15, each LEA shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:395; R.S. 17:397; R.S. 17:399; R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:190 (February 2001), LR 36:

### **§915. State Department of Education Responsibilities**

A. The DOE shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the LEA.

B. The State Superintendent of Education shall prepare an annual report for submission to the BESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

1. the number of students participating in remedial education programs; and
2. the level of student achievement.

C. The DOE shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports.

D. Within 60 days of receipt of the evaluation report from the local school system, the DOE shall submit to each local school system an analysis of the system's evaluation report and the DOE's monitoring results (Board Policy).

E. The DOE shall provide technical assistance to the city and parish school boards which shall include:

1. assistance with development of the remedial section of the pupil progression plan;
2. assistance with staff development;
3. assistance with the use of appropriate department forms;
4. assistance with program implementation; and
5. assistance with conducting local evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 36:

## **Chapter 11. Appendix A**

### **§1101. Definition of Terms**

A. As used in this bulletin, the terms shall be defined as follows.

#### **1. State Terms**

*Acceleration*—advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

*Alternate Assessment*—the substitute way of gathering information on the performance and progress of students with disabilities who do not participate in typical state assessments.

*Alternative to Regular Placement*—placement of students in programs not required to address the State Content Standards.

*Content Standards*—statements of what we expect students to know and be able to do in various content areas.

*LEAP Summer Remediation Program*—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP summer retest in English language arts, or mathematics.

*Louisiana Educational Assessment Program (LEAP)*—the state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English language arts, mathematics, social studies and science and the Graduation Exit Examination (English language arts, mathematics, written composition, science and social studies).

*Promotion*—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

*Pupil Progression Plan*—the comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by BESE. A pupil progression plan shall require the student's proficiency on certain test as determined by BESE before he or she can be recommended for promotion.

*Regular Placement*—the assignment of students to classes, grades, or programs based on a set of criteria established in the pupil progression plan. Placement includes promotion, retention, remediation, and acceleration.

*Remedial Programs*—programs designed to assist students including students with disabilities and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

*Remediation*—see *remedial programs*.

*Retention*—nonpromotion of a pupil from a lower to a higher grade.

#### **2. Local Terms**

a. The definition of *terms* used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005), LR 33:2064 (October 2007), amended LR 36:

## **Chapter 13. Appendix B**

### **§1301. LEAP High Stakes Testing Policy**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 31:1976 (August 2005), LR 31:3104 (December 2005), LR 33:2064 (October 2007), LR 34:2390 (November 2008), repealed LR 36:

## **Chapter 15. Appendix C**

### **§1501. Waiver Request**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:413 (March 2004), amended LR 31:1978 (August 2005), LR 33:2066 (October 2007), repealed LR 36:

#### **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

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Gifted/Talented Students (LAC 28:XLIII.Chapters 11-20)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act: Subpart 2. Regulations for Gifted/Talented Students*. The proposed rule formally realigns the state special education regulations for gifted and talented students with recent changes to 1706, Subpart 1, its companion document and provides Louisiana educators and education administrators with current policies and procedures related to the provision of special education services for students with exceptionalities. This document will now be aligned with Louisiana Revised Statute 17:1941 et seq.

#### Title 28

#### EDUCATION

#### Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

#### Subpart 2. Regulations for Gifted/Talented Students Chapter 11. State Eligibility §1101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the state board) shall be responsible for the assurance of a free appropriate public education to all gifted and talented students ages three through twenty-one years unless the student exits with a high school diploma; and shall exercise supervision and control of public elementary and secondary education.

B. The state board shall be directly responsible for the provision of a free appropriate public education (FAPE) to gifted and talented students, ages three through 21 years, who are within the jurisdiction of either Special School District or in the state board special schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center) unless the student exits with a high school diploma.

C. The state ensures the use of whatever state, local, federal, and private sources of support are available in the state to meet the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### §1102. Issuance of Regulations

A. The state board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1941

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.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision of Bulletin 1566 was done to simplify and reorganize the Bulletin. The appendices were eliminated and the content integrated into appropriate locations within the Bulletin. Repetitive information was deleted. Also, changes were made to the High Stakes Testing Policy as required by Act 276 of the 2009 Louisiana Legislative session. Those changes involve providing a fourth grade transition program for students who meet certain requirements and limiting the time that students can be retained in the eighth grade due to failure of the LEAP test to one year. There will be no costs or savings to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be 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 costs or economic benefits to persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#026

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1103. Compliance with Federal Rules**

A. The state board has the responsibility of complying with rules and regulations governing grants for educational purposes from the federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1104. Reserved.**

**§1105. Program Options**

A. The department shall ensure that each LEA take steps to ensure that its gifted and talented students residing in the area served by the LEA have available to them the variety of educational programs and services available to all students in the area served by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1106. Reserved.**

**§1107. Child Find Activities**

A. Each LEA, in accordance with the requirements of this subpart, shall document that the effort of ongoing identification activities is conducted to identify and locate each student who is under its jurisdiction, who is suspected of being gifted or talented in visual arts, music or theatre and in need of special education and related services, and who is one of the following:

1. enrolled in an educational program operated by an LEA;
2. enrolled in a private school program;
3. enrolled in a public or private preschool or day care program;
4. is not enrolled in school, except for students who have graduated with a regular high school diploma.

B. Ongoing identification activities apply to highly mobile gifted and talented students (such as migrant and homeless students) and students who are suspected of being gifted or talented in visual arts, music or theatre and in need of special education.

C. Notice of the child identification effort regularly undertaken by the department and LEAs must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1108-1116. Reserved.**

**§1117. Facility Comparability**

A. Facilities identified as being for gifted and talented students and the services and activities provided therein shall meet the same standards and level of quality as do the facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1118. General Responsibility**

A. Each local educational agency (LEA) shall establish and implement procedural safeguards that meet the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1119-1128. Reserved.**

**§1129. Gifted and Talented Students Enrolled by their Parents in Private Schools**

A. Definitions

*Private School Students*—students enrolled by their parents in private schools or facilities.

B. Private school gifted and talented students shall be identified, located, and evaluated through prescribed procedures.

1. Each LEA shall locate, identify, and evaluate all private school gifted and talented students, including religious-school students residing in the jurisdiction of the LEA.

2. The activities undertaken to carry out this responsibility for private school gifted and talented students shall be comparable to activities undertaken for gifted and talented students in public schools.

C. The provision of services to gifted and talented students shall follow basic requirements.

1. No LEA is required to provide services for gifted and talented students enrolled in private schools or in home school programs.

D. Complaints are limited to the conditions listed below.

1. The due process procedures in §1507 of these regulations apply to complaints that an LEA has failed to meet the child find requirements, including the procedures for evaluation and determination of eligibility found in these regulations.

2. Complaints that an LEA has failed to meet the requirements of §1129 of these regulations may be filed under the procedure established in §1151 of Bulletin 1706, Subpart 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1130. General LDE Responsibilities and Authorities**

A. The State Superintendent of Public Elementary and Secondary Education (the Superintendent) and the State Department of Education (the LDE) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the state superintendent and the department are listed below.

1. The department shall approve, in accordance with standards approved by the state board, each public school program that delivers special education.

2. The department shall recommend to the state board, in accordance with standards approved by the state board, each participating private school program that delivers special education.

3. The department shall receive, administer, and direct the distribution of federal funds for the education of students

with exceptionalities in gifted or talented in visual arts, music or theatre, except those received directly by LEAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1131. Reserved.**

**§1132. Personnel Qualifications**

A. General. The LDE shall establish and maintain qualifications of personnel through *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, to ensure that personnel necessary to carry out the purposes of these regulations are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve students identified as gifted or talented.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1133. Improvement Strategies**

A. The department will describe the strategies the state will use to address the needs identified. The strategies will include how the state will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with gifted and talented students (including professional personnel who provide special education, general education and related services), have the skills and knowledge necessary to meet the needs of gifted and talented students. The plan will include a description of how the department will accomplish the following:

1. The department shall prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of gifted and talented students including how the state will work with other states on common certification criteria.

2. The department shall work with institutions of higher education and other entities that (on both a pre-service and an in-service training basis) prepare personnel who work with gifted and talented students to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet state and local needs.

3. The department shall develop collaborative agreements with other states for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation.

4. The department shall work in collaboration with other states, particularly the departments of education of neighboring states, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel.

5. The department shall acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, concerning how the state will, if appropriate, adopt promising practices, materials, and technology.

6. The department shall encourage LEAs to recruit, prepare, and retain qualified personnel, including personnel with exceptionalities and personnel from groups that are

under-represented in the fields of regular education, special education, and related services.

7. The department shall develop a plan that is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other federal and state laws that address personnel recruitment and training.

8. The department shall provide for the joint training of parents and special education, related services, and general education personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1134-1148. Reserved.**

**§1149. General Supervision**

A. The Division of Special Populations is established within the department to provide general supervision of all education programs for Gifted and Talented students within the state. *General supervision* is defined as the responsibility to perform functions prescribed by the state board.

1. The Division of Special Populations shall ensure that any state standards affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

2. The Division of Special Populations shall disseminate such standards and revisions to all public agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards.

3. The Division of Special Populations shall provide technical assistance to all public agencies bound by such standards in their proper implementation.

4. The Division of Special Populations shall monitor according to written procedures the implementation of state standards in each public agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues.

5. The Division of Special Populations shall institute a system for complaint management regarding the implementation of state standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1150. Reserved.**

**§1151. Adoption of State Complaint Procedures and Early Resolution Program**

A. General. The LDE adopts written procedures herein and in *Bulletin 1573—Complaint Management Procedures*, for:

1. the purpose of resolving any complaint alleging that a public agency has violated the *Louisiana Children with Exceptionalities Act R.S.17:1941* including a complaint filed by an organization or individual from another state, that meets the requirements of §§1151 through 1153 by providing:

a. for the implementation of an Early Resolution Process (ERP); and/or

b. the filing of a formal written complaint with the LDE.

B. The LDE shall widely disseminate to parents and other interested individuals and other appropriate entities:

1. the state procedures under §§1151 through 1153 and *Bulletin 1573—Complaint Management Procedures*; and
2. the appropriate contact information for LEAs and other public agencies serving students.

C. Informal Complaints. It is the policy of the LDE to encourage and support prompt and effective resolution of any complaint described in §1151.A.1 in the least adversarial manner possible. The LDE shall effect such policy to promote dispute prevention and the swift resolution of disputes by implementing an Early Resolution process.

1. Early Resolution Process (ERP). An ongoing and systematic, informal dispute resolution process.

a. ERP shall include a systematic, local level process for the prompt and orderly resolution of complaints by each public educational agency;

b. Each LEA in the state shall establish an internal ERP in accordance with standards outlined in *Bulletin 1573—Complaint Management Procedures*, which shall include:

- i. the designation of a local ERP representative and notice of the name, address, telephone number; and
- ii. other contact information for the LEA's designated ERP representative.

c. The implementation of the ERP by each LEA draws on the traditional model of parents and schools working cooperatively in the educational interest of the student to achieve their shared goal of meeting the educational needs of students with an exceptionality.

d. To promote the cooperative resolution of complaints at the local level, the LDE shall not be involved in the informal resolution process (ERP) implemented at the local level, but shall route to the public agency's ERP representative, verbal and other informal complaints or allegations received by the LDE.

2. Requesting ERP. A parent, adult student, individual, or organization shall initiate a request for ERP on one or more issues described in §1151.A.1 by contacting the local level ERP representative or the LDE's ERP Intake Coordinator(s).

a. Informal complaints to the LDE shall only be made through the LDE's Intake Coordinator(s) who shall refer the complaint to the ERP representative of the LEA immediately, if possible, but not later than two calendar days after receiving the complaint.

b. The LDE's Intake Coordinator(s) shall:

- i. be the LDE's only designated individual(s) to perform complaint intake duties and responsibilities;
- ii. not have a *juris doctorate* degree;
- iii. have completed specific training in accepted methods and practices for recording information in a neutral and confidential manner; and
- iv. perform duties consisting of receipt of informal complaints and request for ERP; providing local agency ERP contact information to the complainant(s); and referral of such informal complaint or ERP request to the local agency's ERP Representative in accordance with Subsection C of this Section.

3. Early Resolution Period. If a resolution of the informal complaint cannot be achieved within 15 calendar days of the public agency's receipt of the complaint, or an

extended period agreed upon by the parties in writing, the LEA's ERP representative shall advise the complainant of the availability of other dispute resolution processes available through the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§1152. Formal Written Complaints Filing and Content Requirements**

A. An organization or individual, including those from another state, may file a signed written complaint under the procedures described in §§1151 through 1153.

B. The complaint shall include:

1. a statement that a public agency has violated a requirement of these regulations;
2. the facts on which the statement is based;
3. the signature and contact information for the complainant; and
4. if alleging violations with respect to a specific student:

a. the name and address of the residence of the student;

b. the name of the school the student is attending;

c. in the case of a homeless child or youth (within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the student, and the name of the school the student is attending;

i. a description of the nature of the problem of the student, including facts relating to the problem; and

ii. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

C. The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §§1151 through 1153.

D. The party filing the complaint shall forward a copy of the complaint to the LEA or public agency serving the student, at the same time the party files the complaint with the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§1153. Formal Written Complaint Procedures**

A. Time Limit; Minimum Procedures. Upon receipt of a signed written complaint filed under §1152, the LDE shall refer the complaint to the ERP representative in accordance with §1151.

1. The LDE shall:

a. not commence investigation of a complaint until the expiration of the informal resolution period described in §1151.C.3; but

b. shall complete its investigation of unresolved allegations and issue a decision within 45 days after the expiration of the early resolution period in accordance with the procedures contained in this Section.

2. Upon expiration of the resolution period, the LDE shall review the allegations contained in the complaint and shall provide written notice to the LEA or public agency serving the student, including the following:

a. a request for specific information needed by the LDE to carry out its independent investigation of the complaint;

b. reasonable timelines established for providing such information to the LDE;

c. a statement of the opportunity to respond to the complaint, including at a minimum:

i. the opportunity to provide a proposal to resolve the complaint, at their discretion; and

ii. the opportunity to offer to the parent who has filed a complaint, mediation consistent with §1504 or neutral IEP facilitation as available through the LDE.

B. The LDE shall provide written notice to the complainant including a statement of the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

C. All information relevant to the complaint shall be reviewed by the LDE, and a decision shall be made as to whether an independent on-site investigation is needed.

D. The LDE shall review all relevant information and make an independent determination as to whether the public agency is violating a requirement of R.S. 17:1941, et seq. or these regulations.

E. Decision. Within 45 days of expiration of the early resolution process, the LDE shall issue a written decision to the complainant and the public agency that addresses each remaining allegation of the complaint and contains:

1. findings of fact and conclusions; and

2. the reasons for the LDE's final decision.

F. Time Extension; Final Decision; Implementation. The LDE shall permit an extension of the time limit under Subsection A of this Section only if:

1. exceptional circumstances exist with respect to a particular complaint; or

2. the parent (or individual or organization) and the public agency involved agree to extend the time to engage in mediation, IEP facilitation, or other alternative means of dispute resolution.

G. Complaints Filed under this Section and Due Process Hearings Under §1507

1. If a written complaint received is also the subject of a due process hearing under §1507 or, if it contains multiple issues, of which one or more is part of that hearing, the LDE shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue of the complaint that is not a part of the due process action shall be resolved, using the time limit and procedures described in Subsections A and B of this Section.

2. If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties:

a. the due process hearing decision shall be binding on that issue; and

b. the LDE shall inform the complainant to that effect.

3. A complaint alleging an agency's failure to implement a due process hearing decision shall be resolved by the LDE.

H. Remedies for Denial of Appropriate Services. In resolving a complaint in which it has found a failure to provide appropriate services, the LDE, pursuant to its

general supervisory authority under these regulations, shall address:

1. the failure to provide appropriate services including corrective action appropriate to address the needs of the student (such as compensatory services or monetary reimbursement); and

2. appropriate future provision of services for all students with exceptionalities.

I. Reconsideration Requests. If either the public agency or the complainant believes that the LDE has made an error in one or more findings of fact and/or law, a reconsideration of the investigative findings and decision may be requested, in writing, to the LDE's legal division in accordance with the following procedures:

1. the request shall be simultaneously submitted to the LDE and the other party subject to the complaint; and

2. for each error submitted for reconsideration, the requestor shall provide the reference number assigned by the LDE to the complaint at issue; the page number of the written decision where such alleged error can be found; highlighted sections of data submitted for investigation that would assert a fact contrary to what is reflected in the written decision; and citations to applicable law, regulations, or jurisprudence, where applicable, to support the alleged error of law; and

3. the requestor shall provide a written explanation that indicates how originally-submitted documentation changes the respective finding(s) of fact or law and/or how the alleged error impacts the conclusion of the LDE with respect to the allegation(s) at issue;

4. documents and other information not originally submitted regarding the allegation(s) shall not be accepted for review; and

5. reconsideration requests, including all documentation relevant to the reconsideration request, shall be received by the LDE no later than 10 calendar days after the date of receipt of the investigative report. Should the other party to the complaint wish to respond to the reconsideration request, the response shall be received by the LDE no later than 10 calendar days after the LDE received the original reconsideration request; and

6. reconsideration requests received by the LDE after the 10 calendar day deadline shall not be reviewed;

7. reconsideration requests received timely and that meet criteria established by this subsection shall be reviewed by a panel of individuals appointed by the division director and the LDE shall inform the complainant and the public agency of its determinations, in writing, within 30 calendar days from the date the LDE receives the written reconsideration request;

8. reconsideration requests by third parties shall not be accepted;

9. reconsideration requests shall not be used to delay or deny implementation of FAPE for a student with an exceptionality.

10. implementation of any corrective actions required in the state's initial (pre-reconsideration) decision shall not be delayed pending the reconsideration process.

J. The LDE shall ensure effective implementation of the final decision, if needed, including:

1. technical assistance activities;

2. negotiations; and

3. corrective actions to achieve compliance.

K. Correction of Non-Compliance. If a complaint results in a finding of non-compliance, the public agency shall be required to document that it has taken corrective action as required by the complaint decision.

1. The LDE shall refer and recommend to BESE the delay or denial of funding or an offset of future funding for any LEA that, after due notice:

a. refuses or fails to submit requested documentation of corrective action; or

b. refuses or fails to take or complete required corrective action.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1154-1155. Reserved.**

**§1156. Adequate Supply of Qualified Personnel**

A. The department will analyze state and local needs for professional development for personnel to serve gifted and talented students: the number of personnel providing special education and related services; relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification); and the training or retraining necessary to eliminate the shortages based, to the maximum extent possible, on existing assessments of personnel needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1157-1166. Reserved.**

**§1167. Appointment of a Gifted/ Talented Program**

**Contact Person**

A. Each LEA shall designate a contact person for the gifted and talented programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1168-1172. Reserved.**

**§1173. Nondiscrimination**

A. The department shall comply with all statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability and age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1174. Disproportionality**

A. Consistent with the purposes of these regulations, the LDE establishes the following policies and procedures to prevent the inappropriate over-identification or disproportionate representation by race and ethnicity of students as students with exceptionalities.

1. The LDE shall annually collect and analyze data described in Subsection A above.

2. When data described in Subsection A. above indicate over-identification or disproportionate identification, the LDE shall review the policies, procedures, and practices of the LDE or the affected LEA.

3. When the review indicates an inappropriate identification process, the LDE shall require the revision of

the LDE's or the affected LEAs policies, procedures, and practices to ensure compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1175-1199. Reserved.**

**Chapter 12 Local Educational Agency Eligibility**

**§§1201-1229. Reserved.**

**§1230. LEA Jurisdiction**

A. Each LEA shall identify, locate, and evaluate each student suspected of having an exceptionality as gifted or talented in visual arts, music or theatre 3 through 21 years of age, residing within its jurisdiction.

B. Each LEA is responsible for making available a free appropriate public education to each eligible student with an exceptionality, 3 through 21 years of age, who resides within its jurisdiction except those students enrolled by their parents in a private school program.

1. LEAs are not required to provide services to students whose parents choose not to enroll them in a program operated by the LEA.

2. Services do not have to be provided to gifted or talented students who have been suspended or expelled.

C. Students who are eligible to receive a free appropriate public education are described as follows:

1. LEAs shall make available a free appropriate public education to all gifted and talented students located in their jurisdictions from the age of three years, regardless of when the birthday occurs during the school year.

2. A student with an exceptionality shall remain eligible for services until reaching age 22 unless the student has graduated from high school with a regular high school diploma. A student with an exceptionality whose twenty-second birthday occurs during the course of the regular school year (as defined by the LEA) may be allowed to remain in school for the remainder of the school year.

D. Jurisdiction is the right and obligation of an LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA .

1. For city/parish school systems, the geographic area is the boundary of the school district as defined in the Louisiana Revised Statutes.

2. For SSD, the geographic area is the boundary of the state-operated treatment and care residential facilities.

3. For a state board special school, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If an LEA places a student in another LEA or an approved private school, the student so placed remains within the jurisdiction of the placing LEA. The responsibility for a FAPE remains with the placing LEA.

a. all students sent to a board special school by another LEA are considered "placed" by the sending LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1231-1299. Reserved.**

**Chapter 13 Evaluation, Eligibility, Determinations,  
Individual IEPs and Educational  
Placements**

**§1301. Parental Consent**

**A. Parental Consent for Initial Evaluation**

1. a. The public agency proposing to conduct an initial evaluation to determine if a student qualifies as a Gifted or Talented student as defined in §1904 shall, after providing notice consistent with §1503, obtain written informed consent consistent with the definition of consent in §1904, from the parent of the student before conducting the evaluation.

b. Parental consent for initial evaluation shall not be construed as consent for initial provision of special education and related services.

c. The public agency shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the student is a student with an exceptionality.

2. For initial evaluations only, if the student is a ward of the state and is not residing with the student's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the student is a student with an exceptionality, if:

a. despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the student;

b. the rights of the parents of the student have been terminated in accordance with state law; or

c. the rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

3. If the parent of a student fails to respond to a request for, or refuses to consent to the initial provision of special education and related services, the public agency;

a. may not use the procedures in Chapter 15 of these regulations (including the mediation procedures under §1504 or the due process procedures under §§1507 through 1516) in order to obtain agreement or a ruling that the services may be provided to the student.

b. will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with special education and related services for which the parent refuses to or fails to provide consent; and

c. is not required to convene an IEP Team meeting or develop an IEP under § 1320 and §1324 for the student.

**B. Parental Consent for Services**

1. A public agency that is responsible for making FAPE available to a student with an exceptionality shall obtain informed written consent from the parent of the student before the initial provision of special education and related services to the student.

2. The public agency shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the student.

3. If the parent of a student fails to respond or refuses to consent to services under Subsection B of this Section, the

public agency may not use the procedures in Chapter 15 of these regulations (including the mediation procedures under §1504 or the due process procedures under §§1507 through 1516) in order to obtain agreement or a ruling that the services may be provided to the student.

4. If the parent of the student refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency:

a. will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the student with the special education and related services for which the public agency requests consent; and

b. is not required to convene an IEP Team meeting or develop an IEP under §1320 and §1324 for the student for the special education and related services for which the public agency requests such consent.

**C. Parental Consent for Reevaluations**

1. Subject to Paragraph C.2 of this Section, each public agency:

a. shall obtain informed written parental consent, in accordance with §1301, prior to conducting any reevaluation of a student with an exceptionality;

b. if the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in Paragraph A.4 of this Section;

c. the public agency does not violate its obligation under §1107 and §1305 if it declines to pursue the evaluation or reevaluation;

2. The informed parental consent described in Paragraph C.1 of this Section need not be obtained if the public agency can demonstrate that:

a. it made reasonable efforts to obtain such consent; and

b. the student's parent has failed to respond.

**D. Other Consent Requirements**

1. If the parent's decision is to withhold consent for the initial evaluation, a reevaluation or initial placement of the student in gifted and talented services, the LEA may not request a due process hearing following the procedures outlined in §1507 of these regulations.

2. The parent may refuse special education services and subsequent reevaluations.

3. Parental consent is not required before:

a. reviewing existing data as part of an evaluation or a reevaluation; or

b. administering a test or other evaluation that is administered to all students, unless, before administration of that test or evaluation, consent is required of parents of all students.

4. A public agency may not use a parent's refusal to consent to one service or activity under Paragraph A of this Section to deny the parent or student any other service, benefit, or activity of the public agency, except as required by these regulations.

5. If a parent of a student who is home schooled or placed in a private school by the parent at his or her own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to

provide consent, the public agency may not use the consent override procedures (described in Paragraphs A.3 and C.1 of this Section); and

6. To meet the reasonable efforts requirement in Paragraphs A.1.c, A.2.a, B.2, and C.2.a of this Section, the public agency shall document its attempts to obtain parental consent using the procedures in §1322.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1302. Reserved.**

**§1303. Nonbias of Testing and Evaluation Materials**

A. The department shall, with the approval of the SBESE, establish procedures as found in §1305 to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or gender bias.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1304. Reserved.**

**§1305. Evaluation and Re-evaluation Procedures**

A. Refer to Bulletin 1508—The Pupil Appraisal Handbook.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1306-1319. Reserved.**

**§1320. Definition of Individualized Education Program**

A. General. As used in these regulations, the term *individualized education program* or IEP, is a written statement for each student with an exceptionality that is developed, reviewed, and revised in a meeting in accordance with §§1320 through 1325 and that shall include the following provisions:

1. Each LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of gifted and talented students in accordance with all the requirements in *Bulletin 1530: Louisiana's IEP Handbook for Students with Exceptionalities*.

2. An IEP that is consistent with FAPE shall be developed and implemented for eligible students.

3. The IEP shall be developed using a format approved by the department.

4. The LEA shall provide a copy of each completed IEP/Placement document signed by the officially designated representative of the LEA at no cost to the student's parent(s).

5. At the beginning of each school year, each LEA shall have in effect an IEP for every gifted and talented student receiving special education and related services in that LEA.

6. When the student's IEP is in effect, it shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.

a. Each teacher shall be informed of his or her specific responsibilities.

B. Each LEA shall comply with the prescribed time lines as described below.

1. A meeting to develop an IEP for a student is conducted within 30 days of a determination that the student needs special education and related services.

2. Implementation of educational placement shall begin as soon as possible but no later than ten school days following receipt by the LEA of formal parental approval.

C. IEPs shall be reviewed and revised following prescribed procedures described below.

1. Each LEA shall ensure that the team reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and ;

2. Each LEA shall revise the IEP, as appropriate, to address concerns in any areas noted in §1324.

3. More than one IEP Team review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/Placement review meeting, the school system shall respond in ten calendar days in writing to that request.

4. Agreement

a. In making changes to a student's IEP after the annual IEP Team meeting for a school year, the parent of a student with an exceptionality and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP.

b. If changes are made to the student's IEP in accordance with Paragraph C.4 of this Section, the public agency shall ensure that the student's IEP Team is informed of those changes.

5. Consolidation of IEP Team Meetings. To the extent possible, the public agency shall encourage the consolidation of reevaluation meetings for the student and other IEP Team meetings for the student.

6. Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in Paragraph C.4 of this Section, by amending the IEP rather than by redrafting the entire IEP. A parent shall be provided with a revised copy of the IEP with the amendments incorporated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1321. IEP Team Participants**

A. Each LEA shall ensure that the IEP team for each student with an exceptionality includes all of the required participants, as listed below:

1. one or both of the parents of the student;

2. input from at least one regular education teacher of the student to the extent appropriate, in the development, review and revision of the student's IEP;

3. at least one special education teacher of the student;

4. an officially designated representative of the LEA;

5. an individual who can interpret the instructional implications of evaluation as designated by the district;

6. at the discretion of the parent or LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The determination of the knowledge or special expertise of any individual shall be made by either the parent or the LEA, whoever invited the individual to be a member of the IEP team;

7. whenever appropriate, the student identified as gifted or talented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1322. Parent Participation**

A. LEAs shall take steps to ensure that one or both of the parents of the gifted and talented student are present at each IEP Team meeting or are afforded an opportunity to participate. LEAs shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and shall schedule the meeting at a mutually agreed upon time and place.

1. This notice shall indicate the purpose, time, and location of the meeting, as well as who shall be in attendance.

2. This notice shall inform the parents of the participation of other individuals on the IEP team who have knowledge or special expertise about the student.

B. If neither parent can attend a scheduled IEP Team meeting for which arrangements have been made in accordance with these regulations, other methods shall be used by the LEA to ensure parental participation, including making individual or conference telephone calls.

C. The meeting may be conducted without a parent in attendance provided that certain procedures are followed, as described below:

1. another method for parental participation is used and documented; or

2. the LEA has documented attempts to arrange a mutually agreed on time and place, such as:

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received;

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1323. Reserved.**

#### **§1324. Gifted and Talented IEP Content and Format**

A. Each completed IEP shall contain a general overview of the student's instructional needs. Required components are listed below:

1. the student's strengths and interests;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation or most recent re-evaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district wide assessment program;
5. the student's present levels of educational performance;
6. pertinent social/emotional information;

7. Input from a regular education teacher (if enrolled in general education).

B. The IEP team shall also consider the language needs of the student as those needs relate to the student's IEP, in the case of a student with limited English proficiency.

C. The IEP shall contain a statement of measurable annual goals that relates to meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum.

D. The IEP shall contain a statement of the special education and related services to advance appropriately toward attaining the annual goals;

E. The projected date for the beginning of the services and the anticipated frequency, location, and duration of those services shall be specified in the IEP.

F. The IEP shall contain a statement of how the student's progress toward the annual goals will be measured.

G. The IEP shall contain a statement of how the student's parents will be regularly informed with at least 1 progress report each grading period. The progress report will show:

1. their child's progress toward the annual goals; and
2. the extent to which the progress is sufficient to enable the student to achieve the goals by the end of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1325. IEP Accountability**

A. The LEA shall provide special education and related services to gifted and talented students in accordance with the student's IEP.

B. The LEA shall make a good faith effort to assist the student to achieve the goals listed in the IEP.

C. No state agency, teacher, or other person shall be held accountable if a student does not achieve the growth projected in the annual goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1326. Students in an Educational Program Operated by the LEA**

A. LEA shall identify a student as suspected of being gifted and talented by the School Building Level Committee (SBLC) according to *Bulletin 741-The School Administrator's Handbook*. This committee shall coordinate and document the results, as appropriate, of educational screening, intellectual screening, talent screening, or other types of screening as needed, as defined in *Bulletin 1508, the Pupil Appraisal Handbook*.

B. Within 10 LEA business days after receipt of the referral by the pupil appraisal office for an individual evaluation, pre-referral activities as listed in the *Bulletin 1508, Pupil Appraisal Handbook* under "Initial Responsibilities" of the Evaluation Coordinator shall be conducted.

C. For an initial evaluation and the re-evaluation, the LEA shall obtain informed parental consent according to §1301 of *Bulletin 1706, Subpart 2*. Receipt of parental consent for an individual evaluation by pupil appraisal personnel begins the 60 business days timeline.



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1327. Gifted/Talented Students Transferring from one LEA to another LEA within Louisiana**

A. Students who have been receiving gifted and talented services in one LEA in Louisiana and who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the new LEA with the current IEP or the development of a review IEP within five school days of the transfer.

B. Transmittal of Records. To facilitate the transition for a student transferring from one LEA to another LEA within the state:

1. the new public agency in which the student enrolls shall take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous public agency in which the student was enrolled, pursuant to 34 CFR 99.31(a)(2); and

2. the previous public agency in which the student was enrolled shall take reasonable steps to promptly respond to the request from the new public agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1328. Students Out of School and/or Gifted and Talented Students Residing in the State**

A. Students out of school, including students ages 3 through 22 years who are suspected of being gifted or talented who have left a public school without completing their public education by obtaining a state diploma, shall be referred to Child Find, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Gifted or talented students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process according to *Bulletin 1530*.

B. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1329-1399. Reserved.**

**Chapter 15 Procedural Safeguards**

**§1501. Discipline Procedures for Gifted and Talented Students**

A. Discipline procedures for students identified as gifted or talented are the same as for regular education students.

B. Discipline information remains with the regular education records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1502. Opportunity to Examine Records and Parental Participation in Meetings**

A. Parents of gifted and talented students shall be afforded an opportunity to inspect and review all educational records with respect to the identification, evaluation and educational placement of the student and with respect to the provision of a FAPE to the student.

B. Parents of gifted and talented students shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of the student and the provision of a free appropriate public education to the student.

1. Each LEA shall provide notice consistent with §1503 of these regulations to ensure that parents of Gifted and Talented students have the opportunity to participate in meetings described in paragraph §1502.B.

2. A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision, if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities in which public agency personnel engage to develop a proposal or response to parents' proposal that will be discussed at a later meeting.

3. Each LEA shall ensure that the parents of each gifted and talented student are members of any group that makes decisions on the educational placement of their child. (See §1322 of these regulations)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1503. Prior Notice and Procedural Safeguard Notice**

A. Written notice shall be given to the parents of gifted and talented students a reasonable time before the LEA:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student; or

2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

B. The prior notice shall include prescribed information as listed below:

1. a description of the action proposed (or refused) by the school, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered with the reasons why those options were rejected;

2. a description of each evaluation procedure, test, record or report the LEA used as a basis for the proposed or refused action;

3. a description of any other factors that are relevant to the LEA's proposal or refusal;

4. a statement assuring that the parents of gifted and talented students have protections under the procedural safeguards; and

5. sources for parents to contact to obtain assistance in understanding the provisions of the procedural safeguards.

C. The notice shall be written in language understandable to the general public and provided in the native language of the parents or other mode of communication used by the parents, unless it is clearly not feasible to do so; and

1. if the native language or other mode of communication of the parents is not a written language, the department and the LEA shall take steps to ensure that:

a. the notice is translated orally or by other means to the parents in their native language or other mode of communication;

b. the parents understand the content of the notice;

c. the LEA shall maintain written evidence that the requirements of Paragraph C. of this section have been met.

D. Notices scheduling Individualized Education Program (IEP) Team meetings shall contain not only a description of the purpose, date, time, and location of the meeting, but also a list of who will be in attendance.

E. If the notice relates to an action proposed by the LEA and requires parental consent under these regulations, the LEA may give notice at the same time it requests parental consent.

F. Requirements for procedural safeguards notice are noted below:

1. A copy of the procedural safeguards shall be given to the parents of gifted and talented students, at a minimum:

a. upon the initial referral of the student for evaluation;

b. upon each notification of an IEP meeting;

c. upon re-evaluation of the student; and

d. upon receipt of a request for a due process hearing.

2. The procedural safeguards notice shall include a full explanation of all procedural safeguards available including the state's complaint procedures available in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1504. Mediation**

A. General. Mediation shall be available to allow parties to disputes involving any matter under these regulations. At a minimum, mediation shall be offered whenever a due process hearing is requested. However, mediation is available at any time, whether or not a request for due process has been made.

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned by the department.

2. Mediation shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights.

3. The department shall maintain a list of individuals who are qualified mediators knowledgeable in laws and regulations relating to the provision of special education and related services.

4. The impartial mediator may not be an employee of any LEA or state agency that is providing direct services to the student. The mediator shall not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator shall not be an employee of a LEA

solely because he or she is paid by the agency to serve as a mediator.

5. The department shall bear the cost of the mediation process.

6. The mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

7. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement that:

a. states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

b. is signed by both the parent and a representative of the agency who has the authority to bind such agency; and

c. shall be enforceable in any court of competent jurisdiction.

8. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§§1505-1506. Reserved.**

#### **§1507. Filing a Request for Impartial Due Process Hearing**

##### **A. General**

1. A parent or public agency may file a request for due process hearing on any of the matters under these regulations (relating to the identification, evaluation, or educational placement of a student with an exceptionality, or the provision of FAPE to the student).

2. Prescription. The due process hearing request shall allege a violation that occurred not more than one year before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the request for due process hearing, except that the exceptions to the timeline described in §1511.G apply to the timeline in this Section.

B. Information for Parents. The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if:

1. the parent requests the information; or

2. the parent or the agency files a request for due process hearing under this Section; or

3. a parent who is not literate in English or has an exceptionality that limits his or her ability to communicate in writing shall be afforded the opportunity for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1508. Due Process Hearing Request**

##### **A. General**

1. A party, or the attorney representing a party, files a request for due process hearing by sending to the other party a written request for due process hearing (which shall remain confidential).

2. The party filing a request for due process hearing shall forward a copy to the LDE.

B. Content of Request for Due Process Hearing. The written request for due process hearing required in Paragraph A.1 of this Section shall include:

1. the student's name;
2. the address of the residence of the student;
3. the name of the school the student is attending;
4. in the case of a homeless student or youth (within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the student, and the name of the school the student is attending;

5. a description of the nature of the problem of the student relating to the proposed or refused initiation or change, including facts relating to the problem; and

6. a proposed resolution of the problem to the extent known and available to the person requesting the hearing at the time.

C. Notice Required before a Hearing on a Request for Due Process Hearing. A party may not have a hearing on a request for due process hearing until the party, or the attorney representing the party, files a request for due process hearing that meets the requirements of Subsection B of this Section.

D. Sufficiency of Request for Due Process Hearing

1. The request for due process hearing required by this section shall be deemed sufficient unless the party receiving the request for due process hearing notifies the hearing officer and the other party in writing, within 15 days of receipt of the written request for due process hearing, that the receiving party believes the written request does not meet the requirements in Subsection B of this Section.

2. Within five days of receipt of notification under Paragraph D.1 of this Section, the hearing officer shall make a determination on the face of the written request for due process hearing, whether the due process hearing request meets the requirements of Subsection B of this Section, and shall immediately notify the parties in writing of that determination.

E. Amendments to Written Request

1. A party may amend its request for due process hearing only if:

- a. the other party consents in writing to the amendment and is given the opportunity to resolve the due process hearing request through a meeting held pursuant to §1510.A; or

- b. the hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than 5 days before the due process hearing begins.

2. If a party files an amended request for a due process hearing, the timelines for the resolution meeting in §1510.A and the time period to resolve in §1510.B begin again with the filing of the amended due process hearing request.

F. LEA's Response to Request for Due Process Hearing

1. If the LEA has not sent a prior written notice under §1504 to the parent regarding the subject matter contained in the parent's request for due process hearing, the LEA shall, within 10 days of receiving the request for due process hearing, send to the parent a response that includes:

- a. an explanation of why the agency proposed or refused to take the action raised in the request for due process hearing;

- b. a description of other options that the IEP Team considered and the reasons why those options were rejected;

- c. a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

- d. a description of the other factors that are relevant to the agency's proposed or refused action.

2. A response by an LEA under Paragraph F.1 of this Section shall not be construed to preclude the LEA from asserting that the parent's request for due process hearing was insufficient, where appropriate.

G. Other Party Response to a Request for Due Process Hearing. Except as provided in Subsection F of this Section, the party receiving a written request for due process hearing shall, within 10 days of receiving the written request, send to the other party a response that specifically addresses the issues raised in the request for due process hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### §1509. Model Forms

A. The LDE will develop model forms to assist parents and public agencies in filing a request for due process hearing in accordance with these regulations and to assist parents and other parties in filing a state complaint under these regulations. The forms may be found on the LDE website. The use of the model forms shall not be required.

B. Parents, public agencies, and other parties may use the appropriate model forms described in Paragraph A of this Section, or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in these regulations for filing a request for due process hearing, or the requirements in these regulations for filing a state complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### §1510. Resolution Process

A. Resolution Meeting

1. Within 15 days of receiving notice of the parent's request for due process hearing, and prior to the initiation of a due process hearing, the LEA shall convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the request for due process hearing that:

- a. includes a representative of the public agency who has decision-making authority on behalf of that agency; and

- b. may not include an attorney of the LEA unless the parent is accompanied by an attorney.

2. The purpose of the meeting is for the parent of the student to discuss his or her request for due process hearing, and the facts that form the basis of the request for due process hearing, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process hearing request.

3. The meeting described in Paragraph A.1 and 2 of this Section need not be held if:

a. the parent and the LEA agree in writing to waive the meeting; or

b. the parent and the LEA agree to use the mediation process described in §1504.

4. The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.

**B. Resolution Period**

1. If the LEA has not resolved the issues contained in the request for due process hearing to the satisfaction of the parents within 30 days of the receipt of the written request for due process hearing, the due process hearing may occur.

2. Except as provided in Subsection C, the timeline for issuing a final decision under §1515 begins at the expiration of this 30-day period.

3. Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding Paragraphs B.1 and 2 of this Section, the failure of a parent filing a due process request to participate in the resolution meeting shall delay the timelines for the resolution process and due process hearing until the meeting is held.

4. If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's request for due process hearing.

5. If the LEA fails to hold the resolution meeting specified in Subsection A of this Section within 15 days of receiving notice of a parent's request for due process hearing or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

**C. Adjustments to 30-Day Resolution Period.** The 45-day timeline for the due process hearing in §1515. A starts the day after one of the following events:

1. both parties agree in writing to waive the resolution meeting;

2. after either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible;

3. if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.

**D. Written Settlement Agreement.** If a resolution to the dispute is reached at the meeting described in Paragraphs A.1 and 2 of this Section, the parties shall execute a legally binding agreement that is:

1. signed by both the parent and a representative of the agency who has the authority to bind the agency; and

2. enforceable in any court of competent jurisdiction or, by the LDE, through the state complaint procedures.

**E. Agreement Review Period.** If the parties execute an agreement pursuant to Subsection C of this Section, a party may void the agreement within three business days of the agreement's execution.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:1941 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:

**§1511. Impartial Due Process Hearing and Hearing Officer Appointments**

**A. General.** Whenever a request for due process hearing is received, the parents or the LEA involved in the dispute shall have an opportunity for an impartial due process hearing, consistent with the procedures in these regulations.

**B. Agency Responsible for Conducting the Due Process Hearing.** The due process hearing described in paragraph A of this section shall be conducted by the LDE.

**C. Impartial Hearing Officer.** The LDE shall appoint hearing officers, who:

1. meet the minimum qualifications stipulated below:

a. shall have earned a *juris doctorate* degree;

b. shall possess knowledge of, and the ability to understand, the provisions of the state law pertaining to the provision of services to gifted and talented students and legal interpretations of those laws

c. shall possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice;

d. shall possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice; and

e. shall possess other qualifications established by the LDE;

2. shall not:

a. be an employee of a public agency that is involved in the education or care of the student;

b. have a personal or professional interest that would conflict with the person's objectivity in the hearing; or

c. have represented an LEA or a parent as an attorney in education litigation within a three year period prior to appointment by the LDE;

3. a person who otherwise qualifies to conduct a hearing under Paragraph C.1 of this Section is not an employee of the agency solely because the person is paid by the agency to serve as a hearing officer;

4. the LDE shall keep the LDE generated list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers;

5. the LDE shall ensure that impartial due process hearing officers appointed pursuant to this Section have successfully completed a training program approved by the LDE. Additional training shall be provided by the LDE whenever warranted by changes in applicable legal standards or educational practices or as determined necessary by the LDE;

6. appointments are renewed at the discretion of the LDE;

7. the LDE shall assign the hearing officer on a rotational basis from the LDE's list of qualified hearing officers.

**D. Challenge to Impartiality of Due Process Hearing**

1. The parent or LEA shall submit written information to the LDE within three business days of receipt of the notice of the assigned hearing officer, in order to challenge the impartiality of the hearing officer.

2. The LDE shall review any written challenge to the impartiality of the hearing officer and provide a written decision and notice to the parent and LEA within three business days after receipt of the written challenge.

3. If the LDE determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.

E. Subject Matter of Due Process Hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the request for due process hearing, unless the other party agrees otherwise.

F. Timeline for Requesting a Hearing. A parent or agency shall request an impartial hearing on their request for due process hearing within one year of the date the parent or agency knew or should have known about the alleged action that forms the basis of the request for due process hearing.

G. Exceptions to the Timeline. The timeline described in Subsection F of this Section does not apply to a parent if the parent was prevented from filing a request for due process hearing due to:

1. specific misrepresentations by the LEA that it had resolved the problem forming the basis of the request for due process hearing; or

2. the LEA's withholding of information from the parent that was required under these regulations to be provided to the parent.

H. Procedures for conducting a hearing are stipulated below:

1. The hearing officer shall contact all parties to schedule the hearing and then shall notify in writing all parties and the LDE of the date, time and place of the hearing.

2. The hearing shall be conducted in accordance with these regulations as well as procedural guidelines developed by the LDE.

3. At the request of either party, the hearing officer shall have the authority to subpoena persons to appear at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§1512. Hearing Rights**

A. General. Any party to a hearing conducted pursuant to these regulations has the right to:

1. be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with exceptionalities;

2. present evidence and confront, cross-examine, and compel the attendance of witnesses;

3. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

4. obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing at no cost; and

5. obtain written, or, at the option of the parents, electronic findings of fact and decisions at no cost.

B. Additional Disclosure of Information

1. At least 5 business days prior to a hearing conducted pursuant to these regulations, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

2. A hearing officer may bar any party that fails to comply with Paragraph B.1 of this Section from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

C. Parental Rights at Hearings. Parents involved in a hearing shall be given the right to:

1. have the student who is the subject of the hearing present;

2. have the hearing open to the public; and

3. have the record of the hearing and the findings of fact and decisions described in Paragraphs A.4 and A.5 of this Section provided at no cost to parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§1513. Hearing Decisions**

A. Decision of Hearing Officer on the Provision of FAPE

1. Subject to Paragraph A.2 of this Section, a hearing officer's determination of whether the student received FAPE shall be based on substantive grounds.

2. In matters alleging a procedural violation, a hearing officer may find that a student did not receive FAPE only if the procedural inadequacies:

a. impeded the student's right to FAPE;

b. significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child; or

c. caused a deprivation of educational benefit.

3. Nothing in Subsection A of this Section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements in these regulations.

B. Separate Request for a Due Process Hearing. Nothing in these regulations shall be construed to preclude a parent from filing a separate due process hearing request on an issue separate from a due process hearing request already filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### **§1514. Reserved.**

### **§1515. Timelines and Convenience of Hearings and Reviews**

A. A final hearing decision shall be reached and a copy of the decision mailed to each of the parties not later than 45 days after the expiration of the 30-day period under §1510.B or the adjusted time periods described in §1510.C.

B. 1. A hearing officer may grant specific extensions of time beyond the periods set out in Paragraph A of this Section at the request of either party.

2. When an extension is granted, the hearing officer shall, on the day the decision is made to grant the extension, notify all parties and the LDE in writing, stating the date, time, and location of the rescheduled hearing.

C. Each hearing involving oral arguments shall be conducted at a time and place that is reasonably convenient to the parents and student involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1516. Civil Action**

A. General. Any party aggrieved by the decision of the hearing officer has the right to bring a civil action in a court of competent jurisdiction.

B. Time Limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer to file a civil action.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1517. Costs**

A. The department shall bear the cost of the hearing officer and the court reporter. Each party shall bear its own costs, including witness costs, unless otherwise agreed or ordered by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1518. Student Status During Proceedings**

A. During the pendency of any administrative or judicial proceeding regarding a request for due process hearing under §1507, unless the state or local agency and the parents of the student agree otherwise, the student involved in the complaint shall remain in his or her current educational placement.

B. If the request for due process hearing involves an application for initial admission to public school, the student, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.

C. If the hearing officer in a due process hearing conducted by the LDE agrees with the student's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the state and the parents for the purposes of Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary

Education, LR 36:

#### **§1519. Surrogate Parents**

A. General. Each public agency shall ensure that the rights of a student are protected when:

1. no parent (as defined in §1904) can be identified;
2. the public agency, after reasonable efforts, cannot locate a parent;
3. the student is a ward of the state (including a ward of the court or of a state agency); or
4. the student is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance-Act [42 U.S.C. 11434a(6)].

B. Procedures.

1. Procedures for determining whether a student needs a surrogate parent are contained in the *Surrogate Parent Handbook*.

2. Procedures for assigning a surrogate parent shall be developed and implemented by each LEA.

C. Duties of Public Agency. The duties of a public agency under Subsection A of this Section include the

assignment of an individual to act as a surrogate for the parents. This shall include a method:

1. for determining whether a student needs a surrogate parent; and
2. for assigning a surrogate parent to the student.

D. Wards of the State. In the case of a student who is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the student's case, provided that the surrogate meets the requirements in Subparagraph E.2.a and Subsection F of this Section.

E. Criteria for Selection of Surrogate Parents

1. The public agency may select a surrogate parent in any way permitted under state law.

2. Public agencies shall ensure that a person selected as a surrogate parent:

a. is not an employee of the LDE, the LEA, or any other agency that is involved in the education or care of the student;

b. has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents; and

c. has knowledge and skills that ensure adequate representation of the student.

F. Non-Employee Requirement; Compensation. A person otherwise qualified to be a surrogate parent under Subsection E of this Section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

G. Unaccompanied Homeless Youth. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to Subparagraph E.2.a of this Section, until a surrogate parent can be appointed who meets all of the requirements of Subsection E of this Section.

H. Surrogate Parent Responsibilities. The surrogate parent may represent the student in all matters relating to:

1. the identification, evaluation, and educational placement of the student; and

2. the provision of FAPE to the student.

I. LDE Responsibility. The LDE shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the student needs a surrogate parent.

J. Any person appointed as a surrogate parent shall be protected by the "limited liability" provisions set forth in R.S. 17:1958.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1520. Transfer of Parental Rights at the Age of Majority**

A. When Gifted or Talented students reach the age of majority (18 years of age), which applies to all students, they shall be afforded those rights guaranteed at such age.

1. The LEA shall provide any notice required by these regulations to both the individual and the parent; and all rights accorded to parents under these regulations transfer to the student.

2. All rights accorded to parents under these regulations shall transfer to students who are incarcerated in adult or juvenile, state or local correctional institutions.

3. Whenever rights transfer under these regulations pursuant to Paragraphs A.1 and 2 of this Section, the LEA shall notify the individual and the parent of the transfer of rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§§1521-1599. Reserved.**

### **Chapter 16. Monitoring, Enforcement, Confidentiality, and Program Information**

#### **§1601 Reserved.**

#### **§1602. Monitoring, Complaint Management and Investigation**

A. The Division of Special Populations is authorized to establish a system of monitoring, complaint management and investigatory provisions of these regulations.

B. The Division of Special Populations shall monitor in accordance with the procedures established through a self-study conducted by the LEAs, resulting in goals adopted by the local school systems to improve their gifted and talented services.

C. The Division of Special Populations shall receive and review complaints concerning suspected noncompliance of regulations concerning the education of Gifted and Talented students. It shall conduct this requirement through prescribed procedures.

1. The Division of Special Populations shall address allegations of failure to comply with any provision of these regulations and other applicable state or federal laws, regulations or state standards.

2. The Division of Special Populations, in carrying out its responsibilities, may require LEAs to keep certain records and to submit to the Division of Special Populations complete and accurate reports at such time and in such form and containing such information as are determined necessary to enable the Division of Special Populations to fulfill its responsibilities for ensuring compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1603. Review of Enforcement Recommendations**

A. If outstanding deficiencies occur and remain, the LDE will refer and recommend corrective action to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1604. Confidentiality of Information**

Refer to The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§§1605-1699. Reserved.**

### **Chapter 17. Allotment of Funds**

#### **§1701. Administration of Funds**

A. The division, in concert with other divisions within the department, shall ensure the proper receipt and disbursement of all state and federal funds administered by the department specifically for the provision of special education and related services for gifted and talented students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1702. Preparation of Annual Budget**

A. The department shall prepare and submit to the state board for review and approval for the next fiscal year a comprehensive budget that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the department, special school districts, and city/parish LEAs to comply fully with all of the requirements established by R.S. 17:1941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1703. Procedure for Determination of Eligibility for State or Federal Funds**

A. Each LEA requesting state or federal funds administered by the department shall do so according to the procedures established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§§1704-1799. Reserved.**

### **Chapter 19. General**

#### **§1901. Terms**

A. The terms defined in §1902-1999 of this Chapter are used throughout these regulations. Unless expressly provided to the contrary, each term used in these regulations shall have the meaning established by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

#### **§1902. Abbreviations/Acronyms Used in These Regulations**

- A. DSS—State Department of Social Services.
- B. DHH—State Department of Health and Hospitals.
- C. DPS&C—State Department of Public Safety and Corrections.
- D. FAPE—free appropriate public education.
- E. FERPA—Family Educational Records and Privacy Act of 1974.
- F. G/T—gifted and/or talented in visual arts, music, and/or theatre arts.
- G. IEP—the individualized education program required by §1320 of these regulations.
- H. LEA—local education agency.
- I. LRE—least restrictive environment.

J. ODR—officially designated representative.

K. SBESE—State Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §1903. Abbreviated Terms

A. The Act—Sections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended.

B. The Department—the State Department of Education (LDE)

C. The Division—the Division of Special Populations of the Louisiana Department of Education

D. The State—the state of Louisiana

E. The State Board—the State Board of Elementary and Secondary Education

F. The Superintendent—the State Superintendent of Public Elementary and Secondary Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

### §1904. Definitions

*Age of Majority*—eighteen years of age.

*At No Cost*—all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to regular education students or their parents as a part of the regular educational program.

*Business Day*—see *Day*.

*Child Find*—see §1107 of these regulations.

*Combination Self-Contained and Resource Classroom*—an alternative education placement in which the same teacher provides special education instruction for students who receive instruction in various special education alternative placements. These placements may include self-contained, resource, and regular class.

*Confidentiality of Information*—involves the storage, disclosure to third parties, retention and destruction of personally identifiable information.

*Consent*—the parent:

1. has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. understands and agrees in writing to the carrying out of activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. understands that the granting of consent is voluntary.

*Counseling Services*—services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

*Day; Business Day; School Day*—

1. *Day*—calendar day unless otherwise indicated as business day or school day.

2. *Business Day*—Monday through Friday, except for federal and state holidays (unless holidays are specifically included in the designation of business day).

3. *School Day*—any day, including a partial day that students are in attendance at school for instructional purposes. School day has the same meaning for all students

in school, including students with and without exceptionalities.

*Destruction*—physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

*Due Process*—see Chapter 15 of these regulations.

*Early Resolution Process (ERP)*—a systematic informal process for dispute resolution available prior to or in connection with state administrative complaints in accordance with §§1151 of these regulations.

*Education Records*—the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

*Elementary School*—a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

*Evaluation*—procedures used in accordance with *Bulletin 1508* to determine whether a student has an exceptionality and the nature and extent of the special education and related services that the student needs.

*Free Appropriate Public Education (FAPE)*—special education and related services that:

1. are provided at public expense, under public supervision and direction, and without charge;

2. meet the standards of the LDE;

3. include preschool, elementary school, or secondary school education in the state; and

4. are provided in conformity with an Individualized Education Program (IEP) that meet the requirements of these regulations.

*Foster Parent*—see *Parent*.

*Gifted*—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude according to *Bulletin 1508*.

*Highly Qualified Special Education Teachers*—refer to *Bulletin 746*.

*Homeless Students*—has the meaning given the term homeless students and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

*Individual Education Plan Facilitation*—an alternative dispute resolution method developed by the LDE. This option is available to parents and school districts when both agree that it would be valuable to have a neutral person (IEP Facilitator) present at an IEP Team meeting to assist them in discussing issues regarding an IEP. The role of the IEP Facilitator is to assist in creating an atmosphere for fair communication and the successful drafting of an IEP for the student. Either parent or district can request IEP Facilitation; however, since the process is voluntary, both sides shall agree to participate in the IEP facilitation process. Like mediation, the IEP facilitation is initiated by request to the LDE, and is at no cost to the parents or districts.

*Individualized Education Program or IEP*—a written document for each Gifted or Talented student developed, reviewed, and revised in a meeting in accordance with §1320-1325.

*Individualized Education Program Team or IEP Team*—a group of individuals described in §1321 of these regulations



that is responsible for developing, reviewing, or revising an IEP for a student with an exceptionality.

*Instruction in Regular Class*—an alternative education placement for eligible Gifted and Talented students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

*Least Restrictive Environment*—an environment that allows for depth and breadth of curricula appropriate for the Gifted or Talented student as determined by the IEP team.

*Local Education Agency or LEA*—

1. General. Local Education Agency or LEA—a public board of education or other public authority legally constituted within the state for either administrative control or direction of or to perform a service function for public elementary schools or secondary schools in a city, parish, school district, or other political subdivision of the state or for a combination of school districts or parishes as are recognized in the state as an administrative agency for its public elementary or secondary schools.

2. Educational Service Agencies and Other Public Institutions or Agencies. The term includes:

a. an educational service agency, as defined this section; and

b. any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public nonprofit charter school that is established as an LEA under state law.

*Native Language*—

1. when used with respect to an individual who is limited English proficient, has the following meaning:

a. the language normally used by that individual, or in the case of a student, the language normally used by parents of the student, except as provided in Paragraph A.2 of this definition;

b. In all direct contact with the student, (including the evaluation of the student), the language is the one normally used by the student in the home or learning environment.

2. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

*Parent*—

1.a. a biological, or adoptive parent of a child;  
b. a foster parent;  
c. a guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student, but not the state if the student is a ward of the state;

d. an individual acting in the place of a biological or adoptive parent (including a grandparent, or stepparent or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare; or

e. a surrogate parent who has been appointed in accordance with §1519.

2. a. Except as provided in Subparagraph 2.b of this definition, the biological or adoptive parent, when attempting to act as the parent under these regulations and when more than one party is qualified under this definition to act as a parent, shall be presumed to be the parent for purposes of this definition unless the biological or adoptive

parent does not have legal authority to make educational decisions for the student.

b. If a judicial decree or order identifies a specific person or persons under this definition to act as the "parent" of a student or to make educational decisions on behalf of a student, then such person or persons shall be determined to be the parent for purposes of this definition, except that an employee of a public agency that provides education or care for a student may not act as the parent pursuant to §1519.

*Personally Identifiable*—information includes:

1. the name of the student, the student's parent, or other family member;

2. the address of the student;

3. a personal identifier, such as the student's Social Security number or student number; or

4. a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

*Prior Notice*—see §1503 of these regulations.

*Pupil Appraisal Personnel*—personnel who meet the certification requirements for school personnel for such positions and who are responsible for the delivery of pupil appraisal services included in Bulletin 1508.

*Qualified Personnel*—personnel who have met state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education and related services.

*Related Services*—transportation and counseling needed to assist Gifted and Talented students to benefit from special education.

1. Transportation-services provided to and from school and /or from one school to another during the school day for the provision of gifted or talented services.

2. Counseling-services provided by qualified personnel.

*Resource Center*—an instructional setting in which Gifted and Talented students from two or more schools receive services. The pupil/ teacher ratio shall be consistent with those listed in Chapter 20 of these regulations.

*Resource Departmentalized*—is an instructional setting in which students receive instruction from more than one special education teacher and each teacher teaches only a single content or subject matter area. The pupil/teacher ratio shall be consistent with those listed in Chapter 20 of these regulations. Instruction is provided for not more than the maximum allowed for that exceptionality in a self-contained class at any given period.

*Resource Room*—is a type of alternative education placement for special education and related services designed or adapted as a location where Gifted and or Talented students may receive all or a part of the special education required by their IEPs, and in which all of the following exist:

1. the pupil/teacher ratios established in Chapter 20 are used;

2. only gifted and talented students are enrolled;

3. instruction is provided for not more than 12 students per period;

4. special education is provided by a teacher certified generically or in the area of exceptionality for which special education is provided;

5. students receive special education instruction for at least 21 percent, but no more than 60 percent, of the school day outside the regular classroom.

*School Building Level Committee*—refer to Bulletin 741.

*School Day*—see *Day*.

*Secondary School*—a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12.

*Self-Contained Departmentalized*—is an instructional setting in which students receive instruction more than 60 percent of the school day from more than one gifted or talented teacher and in which each teacher teaches only one content area or subject matter. Pupil/teacher ratios shall be consistent with those listed in Chapter 20 of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

*Self-Contained Special Education Class*—is a type of alternative education placement in which special education instruction and related services is provided inside the regular classroom less than forty percent of the school day.

*Special Education*—specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality through an IEP.

*Specially Designed Instruction*—adapting, as appropriate, to the needs of an eligible student under these regulations, the content, methodology or delivery of instruction to address the unique needs of the student.

*Student with an Exceptionality*—a student who, when evaluated according to *Bulletin 1508—Pupil Appraisal Handbook* is found to have an exceptionality that significantly affects educational performance to the extent that special education is needed.

*Surrogate Parent*—refer to §1519 of these regulations.

*Talented*—has possession of measurable abilities that give evidence of unique talent in visual arts, music, or theatre

*Transportation*—see related services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§§1905-1999. Reserved.

**Chapter 20. State Program Rules for Special Education**

**§2001. Pupil/Teacher and Pupil Appraisal Ratios for Public Education**

A. In providing services to identified Gifted and Talented students, the number of students in each instructional setting shall not exceed the following numbers.

Setting	Preschool	Elementary	Secondary
Self-Contained		25	27
Resource Center		55	55
Resource Departmentalized or Self-Contained Departmentalized		93	98
Instruction in Regular Class		25	27
Resource Pre-school		30	30
A. Full Day	19		

Setting	Preschool	Elementary	Secondary
B. Half Day	23		
Combination			

B. Pupil appraisal members shall be employed by LEAs at the following rate:

1. Public School Ratios Based on Membership Educational Diagnosticians 1:2,400 or major fraction thereof.

2. School Psychologists 1:2,400 or major fraction thereof.

3. Social Workers 1:3,200 or major function thereof.

4. LEAs may substitute one pupil appraisal professional for another provided that all pupil appraisal services are provided in accordance with these regulations and the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§§2002-2099. Reserved.

**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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Gifted/Talented Students**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule formally realigns the state special education regulations for gifted and talented students with recent changes to Bulletin 1706, Subpart 1, its companion document, and provides Louisiana educators and education

administrators with current policies and procedures related to the provision of special education services for students with exceptionalities. This document will now be aligned with Louisiana Revised Statute 17:1941 et seq. The only cost associated with this rule change is the preparation and printing of the document. The cost is projected to be approximately \$1,000. Publication can be accomplished via the department's web site.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to non-governmental groups affected by this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1005#027

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Scholarship/Grant Programs  
(LAC 28:IV.1009, 1011, 1013, 1015, and 1017)

The Louisiana Student Financial Assistance Commission (LASFAC) 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 aligns the certification requirements of the TOPS Tech Early Start Award with those for the Early Start Award such that high schools are responsible for certifying that students are eligible for the program and that participating colleges and universities are responsible for ensuring that students enroll in eligible courses. (SG10114NI)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education**

**Chapter 10. TOPS-Tech Early Start Award  
§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 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 the award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§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.2 and 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1013. Responsibilities of Louisiana Public  
Postsecondary Institutions**

A. Each Louisiana public postsecondary institution 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 to pursue an industry based occupational or vocational education credential in a top demand occupation in accordance with §1903.D;

2. determine whether the student has met the requirements to maintain an award as required by §1007.A.4-6;

3. submit bills to LOSFA in accordance with §1903.B for each eligible student so enrolled;

4. comply with the reporting and records retention requirements of §1903.A and F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1015. Responsibilities of the Board of Regents**

A. The Board of Regents shall define, maintain, and make available to LOSFA and public postsecondary institutions a list of industry based occupational or vocational education credentials.

B. In the event that the funds appropriated for the TOPS-Tech Early Start Award are insufficient to pay all awards for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to limit the awards to the amount appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1017. Responsibilities of the Board of Elementary and  
Secondary Education (BESE) and the Louisiana  
Department of Education (LDE)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), repealed LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG10114NI) until 4:30 p.m., May 10, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Scholarship/Grant Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs or savings due to the proposed change since student eligibility and continuation requirements are unchanged. The change simply clarifies the responsibilities of high schools and colleges and universities with respect to the TOPS-Tech Early Start Program by providing that high schools are responsible for determining a student's eligibility to participate in the program and colleges and universities are responsible for ensuring the student meets continuing eligibility requirements.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The TOPS program affected by this change gives high school students earlier access to post-secondary education opportunities. The higher level of education or technical training for students will have a positive impact on their earning potential, make them more marketable in the job market, and eligible for higher paying jobs. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana by providing additional better paying jobs.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

An increase in the number of students attending post-secondary education will result in an increase in the number of educated/trained workers in the state and that will have a positive impact on competition and employment.

George Badge Eldredge  
General Counsel  
1004#015

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**START Savings Program—Miscellaneous Provisions  
(LAC 28:VI.315)**

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking places in rule the established interest rates to be paid on funds in the Louisiana Education Tuition and Savings Fund and on funds in the Savings Enhancement Fund. (ST10113NI)

**Title 28**

**EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§315. Miscellaneous Provisions**

**A. - B.20. ...**

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

**C. - S.2. ...**

**AUTHORITY NOTE:** Promulgated in accordance with 17:3091-3099.2.

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.12 et seq.

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG10114NI) until 4:30 p.m., May 10, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: START Savings  
Program—Miscellaneous Provisions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units. This proposed change places in rule the actual earnings realized by START account owners who invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. This increase in START funds belongs to the account owner (it is not state general fund money), and no expenditure of state general funds is required.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

These changes adopt the actual interest rates for deposits made to the START Louisiana Principal Protection investment option and earnings enhancements for the year ending December 31, 2009.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge  
General Counsel  
1005#002

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Miscellaneous Amendments for NRC Compatibility  
(LAC 33:XV.102, 328, 713, and 763)(RP051ft)

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 gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 328, 713, and 763 (Log #RP051ft).

This Rule is identical to federal regulations found in 10 CFR 32 and 35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

The changes in the state regulations are Category B and C (must do) requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to be compatible with federal regulations and maintain an adequate Agreement State program. 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 XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

\* \* \*

*Authorized Nuclear Pharmacist*—a pharmacist who:

1. is board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or

2. is identified as an authorized nuclear pharmacist on a department, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or

3. is identified as an authorized nuclear pharmacist on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

4. meets the requirements specified in LAC 33:XV.763.K and M.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:

**Chapter 3. Licensing of Radioactive Material**

**Subchapter D. Specific Licenses**

**§328. Special Requirements for Specific License to  
Manufacture, Assemble, Repair, or Distribute  
Commodities, Products, or Devices that Contain  
Radioactive Material**

A. - J.2.b.i. ...

ii. this individual meets the requirements specified in LAC 33:XV.763.K.2 and M and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

J.2.b.iii. - K.2. ...

L. Licensing the Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use

1. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to Chapter 7 for use as a calibration, transmission, or reference source or for the

uses listed in LAC 33:XV.739, 741, and 747 of these regulations will be approved if the following conditions are met.

L.1.a. - M.4.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:

## **Chapter 7. Use of Radionuclides in the Healing Arts**

### **§713. Suppliers**

A. A licensee shall use for medical use only:

1. ...
2. reagent kits that have been manufactured, labeled, packaged, and distributed in accordance with an approval issued by the U.S. Food and Drug Administration;
3. sealed sources or devices non-commercially transferred from a Nuclear Regulatory Commission Medical Licensee, a licensing state medical use licensee, or an agreement state medical use licensee; and
4. teletherapy sources manufactured and distributed in accordance with a license issued pursuant to these regulations or the equivalent regulations of another agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

### **§763. Training**

A. - E.4.d.iii. ...

F. Training for Use of Manual Brachytherapy Sources. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a manual brachytherapy source for the uses authorized in LAC 33:XV.741 to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph F.2.c of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

F.1.a. - 2.a.ii.(f). ...

b. has completed three years of supervised clinical experience in radiation oncology under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or

the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph F.2.a.ii of this Section; and

c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in Subparagraph F.1.a, or Paragraph F.2.a and b of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in LAC 33:XV.741.

G. - I.2.a.ii.(f). ...

b. has completed three years of supervised clinical experience in radiation therapy under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph I.2.a.ii of this Section; and

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph I.1.a or Subparagraph I.2.a and b and Paragraph I.3 of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Subsection or equivalent agreement state requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

I.3. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:

### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP051ft. Such comments must be received no later than July 1, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. The



comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP051ft. This regulation is available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### **Public Hearing**

A public hearing will be held on June 24, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

1005#028

### **NOTICE OF INTENT**

#### **Office of the Governor**

#### **Board of Examiners of Certified Shorthand Reporters**

Fees (LAC 46:XXI.901)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt changes made to the fees Rule.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXI. Certified Shorthand Reporters**

#### **Chapter 9. Fees**

#### **§901. Fees**

A. The following fees shall be paid to the board.

1. The fee to be paid for the issuance of a reciprocal certificate of registration without board examination is \$125 plus seal fee(s).

2. The fee to be paid upon the issuance and renewal of the certificate of registration \$125 plus seal fee(s).

3. The fee to be paid for a C. C. R. seal is \$20. The minimum requirement of one seal must be purchased upon the issuance or renewal of a certificate. The maximum number of seals that may be purchased is three per certificate holder.

4. The fee to be paid for the purchase of a list of names and addresses of current reporters is \$25.

5. The fee to be paid for reinstatement of a suspended or revoked certificate is the payment of all delinquent fees, plus \$25 for a certificate delinquent for a period of up to one year, \$100 for a certificate delinquent for a period of up to two years, \$200 for a certificate delinquent for a period of two or more years.

6. The fee to be paid for the skills portion of the examination is \$125 and the fee to be paid for the written knowledge portion of the examination is \$140. If the board should find an applicant ineligible for examination, it shall refund eighty percent of the fee paid by said applicant. In no other event shall any refund be made.

7. The fee to be paid for the qualifying test of Q and A at 225 wpm is \$50.

8. The fee to be paid for an NSF check issued to the board is the current bank charge.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:680 (October 1983), amended LR 10:279 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:1541 (December 1993), amended by the Office of the Governor, Board of Examiners of Shorthand Reporters, LR 34:434 (March 2008), LR 36:

#### **Family Impact Statement**

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes until 4:00 p.m., June 10, 2010, to Milton Donegan, Jr., Chairman of the Finance Committee, Louisiana Board of Examiners of Certified Shorthand Reporters P.O. Box 1840, Walker, LA 70785-1840.

Milton Donegan, Jr.  
Chairman of the Finance Committee

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Fees**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change may result in an increase in revenue collected by the La. Board of Examiners of Certified Shorthand Reporters of approximately \$57,200 annually. This amount includes a projected increase of \$1,300 due to an increase in the fee for the written knowledge examination (\$65 increase x 20 exams annually), a \$5,050 projected increase due to the new fee on seals (\$5 increase x 1,010 licensees), a \$50,500 projected increase in the license fee (\$50 increase x 1,010 licensees) and a projected increase of \$350 for the increase in the late fee (\$10 increase x 35 licensees).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will result in an increase in the exam fee of up to \$65 per person taking the written knowledge exam, an increase in the licensing fee for issuance or renewal of up to \$50 per person, an increase in the seal fee for issuance or renewal of \$5 per person, and an increase in the late fee of \$10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Milton Donegan, Jr.  
Chairman of the Finance Committee  
1005#035

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Mobile Dentistry; Relicensure of Dentists, Hygienists  
(LAC 46:XXXIII.312, 313, 314, 1611, 1613 and 1713)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.312, 313, 314, 1611, 1613 and 1713. No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§312. Mobile Dental Clinics**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1497 (August 1998), repealed LR 36:

**§313. Portable and Mobile Dentistry**

**A. Definitions**

*Mobile Dental Clinic or Mobile Dental Unit*—any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another using fixed dental equipment and plumbing.

*Mobile Operator*—a dentist licensed in Louisiana who has registered a Mobile Dental Clinic or Mobile Dental Unit with the dental board pursuant to these rules and who provides dental services in a Mobile Dental Clinic or Mobile Dental Unit either directly and/or through Louisiana licensed dentist associates.

*Mobile Operator Permit*—an authorization given to a Louisiana licensed dentist for the physical use of a mobile dental clinic or mobile dental unit in which to provide dental services. The Mobile permit is required of the owner of the operation and does not apply to any dentist employed or contracted with the owner of the Operation.

*Operation*—the activity conducted by Mobile or Portable Operators.

*Operator*—a licensed Louisiana dentist that has a current Mobile or Portable Operator Permit.

*Portable Dental Clinic*—the use of portable dental delivery equipment which is set-up on site to provide dental services at locations other than a Mobile Dental Clinic or Mobile Dental Unit and other than a dental office and uses non-fixed dental equipment and plumbing.

*Portable Operator*—a dentist licensed in Louisiana providing dental services at a location other than a Mobile Dental Clinic or Mobile Dental Unit and other than a fixed dental office either directly and/or through Louisiana licensed dentist associates.

*Portable Operator Permit*—an authorization given to a Louisiana licensed dentist to provide dental services at locations other than a Mobile Dental Clinic or Mobile Dental Unit and other than a dental office. The Portable Operator Permit is required of the owner of the Operation and does not apply to any dentist employed or contracted with the owner of the Operation.

**B. Exemptions**

1. Exempt from the requirements of these regulations for portable or mobile dentistry and for the use of a *mobile dental clinic, mobile dental unit, or portable dental clinic* are all federal, state, or local governmental agencies.

2. Dentists licensed to practice in Louisiana who have not registered with the board to operate a mobile dental facility or a portable dental operation may provide dental services through the use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

3. The services are limited to dental sealants, screenings, cleanings, radiographs, and fluoride treatments provided that such services are performed at no charge to the patient, the patient's parent or guardian, or any third-party payor.

**C. Application and Criteria for Permit**

1. To own mobile or portable operations a dentist must be licensed in Louisiana, in good standing with the dental board, and must have a *mobile operator permit, a portable operator permit, or both.*

2. A dentist licensed in Louisiana desiring to obtain a *mobile operator permit* from the dental board in order to provide dental services in a *mobile dental clinic or mobile dental unit*, shall apply to the dental board for a *mobile operator permit* on an application form to be provided by the dental board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

3. A dentist licensed in Louisiana desiring to obtain a *portable operator permit* to provide dental services at locations other than his office, shall apply to the dental board for a *portable operator permit* on an application form to be provided by the dental board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

4. Any Louisiana licensed dentist with an existing portable or mobile dental practice shall be entitled to continue operating their portable or mobile dental practice under the prior existing dental board regulations until the necessary permits are granted so long as all application and supporting documentation are submitted for the new permits within 60 days of this rule taking effect.



5. All mobile or portable operations must conform to all existing and applicable Dental Practice Act rules and regulations, federal, state, and local laws, regulations, and ordinances including those relative to radiographic equipment, flammability, construction, sanitation, zoning, OSHA regulations, and applicable Federal Centers for Disease Control Guidelines and Prevention, Louisiana Department of Health and Hospital regulations including those for medical waste transportation, and the applicant possesses any applicable parish and city licenses or permits to operate the unit.

6. Each *mobile dental clinic* or *mobile dental unit* shall have:

- a. ready access to a ramp or lift if necessary;
- b. a properly functioning sterilization system;
- c. ready access to an adequate supply of potable water;
- d. ready access to toilet facilities if necessary;
- e. a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;
- f. an emergency kit available at all times;
- g. portable oxygen available at all times;
- h. sharps containers and red biohazard bags available on site-;
- i. properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;
- j. suction equipment to achieve a minimum level of 3 cubic feet per minute.

7. Each *portable dental clinic* shall have:

- a. ready access to an adequate supply of potable water;
- b. ready access to toilet facilities if necessary;
- c. a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;
- d. an emergency kit available at all times;
- e. portable oxygen available at all times;
- f. sharps containers and red biohazard bags available on site-;
- g. a properly functioning sterilization system;
- h. properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;
- i. suction equipment to achieve a minimum level of 3 cubic feet per minute.

8. The *mobile dental clinic*, *mobile dental unit*, or *portable dental clinic* shall be inspected in a timely fashion by a dental board member or a staff evaluator prior to receiving approval to operate.

9. During operations the *mobile dental clinic*, *mobile dental unit*, or *portable dental clinic* shall prominently display all applicable licenses and permits in compliance with §104 of these rules. These documents may be kept in a notebook labeled Licenses and Permits. Copies of licenses and permits are acceptable.

10. Transferability. Neither the mobile or portable permits are transferable.

11. Renewal. Mobile or portable permits expire at the same time as the operator's dental license but shall be renewed at the time the operator renews his or her dental license by completing the renewal form and paying all applicable fees.

D. Record Keeping. The *operator* or *operation* shall maintain an official business or mailing and actual, physical address of record which shall not be a post office box except where mail is deliverable to a post office box only and a 24 hour emergency telephone number which shall be filed with the board. The dental board shall be notified within 30 days of any change in the address of record. All written or printed, or electronic documents available from or issued by the *operator* or *operation* shall contain the official address of record of the *operator* or *operation*. When not in transit, all dental and official records, printed or electronic shall be maintained or available at the official office address of record, in conformity with all record-keeping requirements and provide at no cost within 24 hours via electronic means or 72 hours by other means upon receipt of a HIPAA compliant request with a satisfactory release.

E. Practice Standards

1. All *operators* and dentists providing care in *mobile dental clinics*, *mobile dental units*, or *portable dental clinics* shall maintain and uphold the prevailing standard of dental care.

2. Anesthesia in all operations shall be limited to local anesthetics only.

3. An *operator* or *operation* must have communication facilities immediately available which will enable the *operator* thereof to contact necessary parties in the event of a medical or dental emergency including 911 capabilities.

4. An *operator* or *operation* which accepts a patient and provides preventative treatment, including prophylaxis, radiographs, and fluoride shall make appropriate referrals for follow-up treatment when indicated in the dentist's professional judgment and is subject to the prevailing standard of dental care.

5. An *operator* or *operation* must ensure that all dental services are provided in a clean, sanitary place, and in compliance with applicable Federal Centers for Disease Control and Prevention Guidelines, the Dental Practice Act and regulations, federal, state, and local laws, regulations, and ordinances including those relative to radiographic equipment, flammability, construction, sanitation, zoning, Louisiana Department of Health and Hospital regulations including those for medical waste transportation, and the applicant possesses any applicable parish and city licenses or permits to operate the unit.

6. An *operator* shall identify and advise the dental board within 30 days of any personnel change relative to all licensed dentists and dental hygienists, associated with the provision of dental services by providing their full names, addresses, telephone numbers, and license numbers.

7. At all times the mobile or portable dental activities shall be under the supervision of the dentist with the *operator* permit or any dentist working in that practice subject to direct and general supervision stipulations found in §701. Any dentist or dental hygienist rendering services shall be licensed and in good standing with the dental board.

8. Although the *operator* and *operation* is responsible for providing emergency follow-up care, the *operator* or *operation* must certify and provide the dental board a copy of a written agreement for emergency follow-up care for patients treated at said locations and the agreement is to include identification of and arrangements for treatment in a

dental facility which is permanently established within 25 miles of the treatment site. When the *operator* has demonstrated no emergency facility is available within the area, the board may grant a distance waiver of this rule to promote and foster access to dental care.

9. When radiographs are to be made by the *operator* or *operation*, a lead apron which includes a thyroid collar shall be utilized and adequate protection for the x-ray technician shall be utilized.

10. There shall be a designated room with a minimum of 100 square feet where portable dentistry will occur and other children will not be present either during or immediately after dental procedures. Also prior to providing treatment a surgical preprocedural rinse shall be administered to the patient.

#### F. Cessation of Operations

1. Upon cessation of the operation, the *operator* shall notify the dental board within 30 days of the last day of *operation* in writing of the final disposition of patient records and charts.

2. If the *operation* is sold, a new registration application must be filed with the board.

3. Upon choosing to discontinue practice or services, the *operator* or *operation* shall notify within 30 days all patients where and how they may obtain their dental records.

4. The *operator* or *operation* shall make reasonable arrangements with the active patients of the operation for the transfer of the patients' records, including radiographs or diagnostic quality copies thereof, to the succeeding practitioner or, at the written request of the patient, to the patient.

5. As used in this section "active patient" applies and refers to a person whom the *operation* has examined, treated, cared for, or otherwise consulted with during the two-year period prior to discontinuation of practice, or moving.

G. Consent Forms for Minors. No services may be performed on minors without a signed consent form from the parent or guardian, which includes the following:

1. a statement that if the minor already has a dentist, the parent or guardian should continue to arrange dental care through that provider;

2. a statement that a parent or guardian may attend all dental visits and the form provides a telephone number and address where the parent or guardian can contact the *operator's* office if they wish to be at the school, facility or site when the minor is being treated. If the parent or guardian contacts the *operator's* office requesting to be present at the dental visit when their child is being treated, then the *operator* shall notify the parent or guardian when dental care is to be rendered so the parent or guardian can be present;

3. a telephone number for emergency services;

4. the telephone number of the parent or guardian. If the parent or guardian fails to include a contact phone number, then no dental services can be provided to that minor;

5. the consent form shall be provided in duplicate in order for the parent or guardian to be provided a copy;

6. confirmation that the patient, parent or legal guardian further understands treatment through such mobile

dental or portable dental providers may affect future Medicaid and insurance benefits for the patient for one year.

#### H. Information for Patients

1. When appropriate, during or at the conclusion of each patient's visit to the *operation*, the patient shall be provided with an information sheet and a mailed copy to the patient's home. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school.

2. The information sheet as required herein shall include the following:

a. 24-hour toll-free as well as an in-state telephone number and address where the parent, guardian, or patient can contact the *operator's* office for questions or emergency dental care;

b. the name of the dentist who provided services;

c. a description of the treatment rendered;

d. referral information if necessary.

#### I. Standards for Equipment

1. The equipment and supplies shall be of a type and condition that allows the dentist providing dental services to meet the prevailing standard of dental care.

2. The equipment and supplies shall be subject to inspection by any dental board member, staff member or agent of the dental board.

#### J. Inspection of Mobile and Portable Operations

1. Inspections of *mobile dental clinics*, *mobile dental units*, or a *portable operator* location of service may be conducted by any dental board member, staff member, or agent of the dental board.

2. The *operator* shall provide notice to the board no later than 24 hours before providing dental services at a school. Said notice shall disclose the date, time, identity of all dental health care providers and the location. If the location is a school, the *operator* shall notify the principal of the school in writing before services are commenced that the dental team is required by law to allow board inspectors on campus in order to conduct unannounced inspections. That notification letter will include the principal's name and phone number and a copy of it will be sent to the board prior to commencing services at any given school.

3. The dental board shall be provided with a list of all sites, including addresses where the *operator* shall conduct mobile or portable activities, at the time the permit is applied for and it shall be updated as necessary every 30 days.

K. Disposal of Infectious Waste. An *operator* or *operation* must handle and dispose of all waste in accordance with §1001 of the board's rules. The transporting of any biohazardous wastes shall be done in compliance with the Louisiana Department of Health and Hospital regulations for the handling and transportation of medical waste.

#### L. Non-resident Management and Administration Rules

1. Any *operator* or *operation* that contracts with or engages any company or entity ("administrative company") to provide management or administrative services shall not enter into a relationship which causes the dentist or his business entity to be in violation of R.S. 37:776(A)(9) which provides as follows:

- (a) Division of fees or other remuneration or consideration with any person not licensed to practice dentistry in Louisiana, or an agreement to divide and share fees received for dental services with any non-dentists in return for referral of patients to the licensed dentists, whether or not the patient or legal representative is aware of the arrangement. However, this Paragraph shall not forbid dentists licensed in Louisiana from practicing in a partnership or professional corporation and sharing professional fees or forbid a dentist licensed in Louisiana from employing another dentist licensed in Louisiana. In addition, no dentist licensed in Louisiana shall share professional fees with a dentist whose license is either suspended or revoked during said period of suspension or revocation.

and R.S. 37:776(A)(10) which provides as follows:

- (a) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry or to possess an ownership interest of any kind in a dental practice, but the person practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.

2. The *operator* must provide to the board proof that the administrative company is authorized to conduct business in the State and has a valid Certificate of Good Standing issued by the Louisiana Secretary of State.

3. An administrative company shall not be permitted to perform any duties or services that are exclusively a Louisiana licensed dentist's responsibility under the Louisiana Dental Practices Act, including the following:

- a. own a mobile or portable dental practice;
- b. provide dental care;
- c. determine what dental services should or should not be offered to a patient;
- d. establish infection control procedures and standards;
- e. determine patient charges and collection policies;
- f. determine when a patient should or should not be referred and where the patient shall be referred;
- g. establish HIPAA standards;
- h. select and employ associated dentists and dental staff.

M. Miscellaneous Provisions

1. All dental health care providers of mobile or portable dentistry shall wear in a conspicuous place on their person a name tag identifying them and their position (D.D.S., R.D.H., EDDA, or D.A.).

2. All mobile or portable dentistry providers shall have written protocols for each of the following areas which shall be kept at the operator's office and with all applicable licenses and permits:

- a. sterilization procedures, including where dedicated and observable sterilization areas are located;
- b. transportation of all waste materials, instruments and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), and Act 429 of the Regular Legislative Session of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:

**§314. Provision of Dental Services at Locations other than Dental Office**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1525 (November 1997), amended LR 25:513 (March 1999), LR 27:1891 (November 2001), repealed LR 36:

**Chapter 16. Continuing Education Requirements**  
**§1611. Continuing Education Requirements for Relicensure of Dentists**

A. ...

B. At least one-half of the minimum credit hours (20) must be attained through clinical courses pertaining to the actual delivery of dental services to patients. At least 10 of these 20 hours must be attained by personally attending clinical courses. Ten of these twenty hours may be attained by completing ADA or AGD certified internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

C. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:

**§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. ...

B. At least one-half of the minimum credit hours (12) must be attained through clinical courses pertaining to the actual delivery of dental or dental hygiene services to patients. At least six of these twelve hours must be attained by personally attending clinical courses. Six of these twelve hours may be attained by completing ADA, AGD, or ADHA certified internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

C. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:245 (February 2006), LR 35:1237 (July 2009), LR 36:

**Chapter 17. Licensure Examinations**  
**§1713. Board Approved Regional or National Independent Third Party Clinical Examinations**

A. The board may accept passing scores from board approved testing agencies which administer reliable, accurate, and valid examinations and in which the board has the option of representation on both the board of directors and the examination review committee or equivalent

committees and allow for the board's input into the examination development and administration.

B.1. The clinical examination shall include procedures performed on human subjects as part of the assessment of restorative and periodontal clinical competencies and shall have included evaluations in at least four of the following subject matter areas:

- a. periodontics, clinical abilities testing;
- b. endodontics, clinical abilities testing;
- c. amalgam preparation and restoration;
- d. anterior composite preparation and restoration;
- e. posterior ceramic or composite preparation and restoration;
- f. cast gold, clinical abilities testing;
- g. prosthetics, written or clinical abilities testing;
- h. oral diagnosis, written or clinical abilities testing;

or

- i. oral surgery, written or clinical abilities testing.

2. In addition to the foregoing requirements, the examination shall include:

- a. anonymity between candidates and examination raters;
- b. standardization and calibration of raters; and
- c. a mechanism for post examination analysis.

3. The board shall accept scores upon such examination for a period of three years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the board office the applicant's scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:63 (January 2010), amended LR 36:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Public Comments**

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Mobile Dentistry; Relicensure of Dentists, Hygienists**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost of \$500 in Fiscal Year 2009-2010 for publication of the proposed rules in the *Louisiana*

*Register*. The Louisiana State Board of Dentistry reports that they can conduct the inspections of mobile clinics required by the proposed rules from within the board's \$25,000 annual amount budgeted for inspections of fixed and mobile dental clinics. There are no estimated costs or savings to local governmental units from the proposed rules.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation of these rule changes will neither increase nor decrease revenues for the Louisiana State Board of Dentistry.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Operators of mobile or portable dental clinics will be required to purchase additional equipment if they currently do not possess such equipment as now required by the new regulations. This cost cannot be estimated at this time. However, at present only 7 licensees possess mobile permits. If the Louisiana State Board of Dentistry chooses to accept only licensing examinations in which the board has the option of representation within that examining organization, then dental and dental hygiene applicants for licensure would be required to take only those examinations accepted by the Louisiana State Board of Dentistry.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

C. Barry Ogden  
Executive Director  
1005#043

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Disproportionate Share Hospital Payments  
Mental Health Emergency Room Extensions  
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2711 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (*Louisiana Register*, Volume 34, Number 8). The department promulgated an Emergency Rule to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to participate as an MHERE (*Louisiana Register*, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Medical Assistance Program—Hospital Services

##### Subpart 3. Disproportionate Share Hospital Payments

##### Chapter 27. Qualifying Hospitals

##### §2711. Mental Health Emergency Room Extensions

A. Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by July 1, 2010 shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

A.1. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### Family Impact Statement

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.

##### Public Comments

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

##### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Disproportionate Share Hospital Payments—Mental Health Emergency Room Extensions

##### 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 09-10. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. In FY 10-11 and FY 11-12, there will likely be an increase in expenses to the state by an unknown amount due to increased DSH payments to some hospitals.

##### 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 other than the

federal share of the promulgation costs for FY 09-10. It is anticipated that \$123 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule. In FY 10-11 and FY 11-12, there will likely be an increase in federal revenue collections by an unknown amount due to increased DSH payments to some hospitals.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the December 20, 2009 emergency rule, proposes to change the deadline for hospitals that established a Mental Health Emergency Room Extension (MHERE) to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services. This rule will likely result in an increase in disproportionate share hospital (DSH) payments to some hospitals by an unknown amount in FY 10-11 and FY 11-12.

##### 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, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it may increase DSH payments to some hospitals. The increase in payments may improve the financial standing of these hospitals and could possibly cause an increase in employment opportunities.

Don Gregory  
Medicaid Director  
1005#103

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

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

Laboratory and Radiology Services  
Radiology Utilization Management  
(LAC 50:XIX.4501)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4501 under the Medical Assistance Program as authorized by 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 and Hospitals, Bureau of Health Services Financing adopted provisions governing radiology utilization management (RUM) to implement a prior authorization requirement for certain high-tech imaging services in order to reduce unnecessary radiology studies (*Louisiana Register*, Volume 35, Number 12). The department now proposes to amend the December 20, 2009 Rule governing laboratory and radiology services to exclude certain Medicaid recipients from radiology utilization management who are not eligible for high-tech imaging, who have a primary health insurance that covers the services or who are enrolled in a Medicaid program with a structured capitated reimbursement methodology. In keeping with the protocol of the Indian Health Care Plan, the department also proposes to exclude Native Americans from RUM.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XIX. Other Services**  
**Subpart 3. Laboratory and Radiology**  
**Chapter 45. Radiology Utilization Management**  
**§4501. General Provisions**

- A. - C. ...
- D. The following Medicaid recipients are excluded from radiology utilization management:
1. Family Planning Waiver recipients;
  2. LaCHIP Affordable Plan recipients;
  3. Program of All Inclusive Care for the Elderly (PACE) recipients;
  4. Native American recipients; and
  5. recipients who have primary health insurance coverage provided by:
    - a. Medicare; or
    - b. a private health insurance carrier.

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 35:2758 (December 2009), amended LR 36:

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.

**Public Comments**

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

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Laboratory and Radiology Services  
Radiology Utilization Management**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other

than the cost of promulgation for FY 09-10. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 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 federal revenue collections other than the federal share for promulgation. It is anticipated that \$123 will be collected in FY 09-10 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 rule proposes to amend the provisions governing radiology utilization management (RUM) for laboratory and radiology services to exclude certain Medicaid recipients from the prior authorization requirements of radiology utilization management. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1005#104

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Nursing Facilities—Reimbursement Methodology  
Rate Determination  
(LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 46:2742.B.7, Act 244 of the 2009 Regular Session of the Louisiana Legislature 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10).

Act 244 of the 2009 Regular Session of the Louisiana Legislature directed the department to establish provisions which provide for the periodic rebasing of nursing facility rates utilizing the most current cost reports. In compliance with Act 244, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities to adjust the periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 35, Number 7). This proposed Rule is being

promulgated to continue the provisions of the July 3, 2009 Emergency Rule.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care Services**

**Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement**

**§1305. Rate Determination**

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - E. ...

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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**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.

**Public Comments**

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

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Facilities—Reimbursement  
Methodology—Rate Determination**

**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 an estimated programmatic increase in expenses to the state of approximately \$15,445,578 for FY 09-10, \$23,869,312 for FY 10-11, and \$30,273,928 for FY 11-12. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

**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 \$67,953,313 for FY 09-10, \$70,700,068 for FY 10-11, and \$67,132,533 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the July 3, 2009 emergency rule which amends the provisions governing the reimbursement methodology for nursing facilities to adjust the periodic rebasing of the nursing facility rates (approximately 6,118,750 services). It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facility payments by approximately \$83,398,563 for FY 09-10, \$94,569,380 for FY 10-11, and \$97,406,461 for FY 11-12.

**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 and employment.

Don Gregory  
Medicaid Director  
1005#105

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Outpatient Hospital Services  
Radiology Utilization Management (LAC 50:V.6105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.6105 under the Medical Assistance Program as authorized by 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 and Hospitals, Bureau of Health Services Financing adopted provisions governing radiology utilization management (RUM) to implement a prior authorization requirement for certain outpatient high-tech imaging services in order to reduce unnecessary radiology studies (*Louisiana Register*, Volume 36, Number 1). The department now proposes to amend the January 20, 2010 Rule governing outpatient hospital services to exclude certain Medicaid recipients from radiology utilization management who are not eligible for high-tech imaging, who have a primary health insurance that covers the services or who are enrolled in a Medicaid Program with a structured capitated reimbursement methodology. In keeping with the protocol of the Indian Health Care Plan, the department also proposes to exclude Native Americans from RUM.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part V. Hospitals**

**Subpart 5. Outpatient Hospitals**

**Chapter 61. Other Outpatient Hospital Services**

**Subchapter A. General Provisions**

**§6105. Radiology Utilization Management**

A. - C. ...

D. The following Medicaid recipients are excluded from radiology utilization management:

1. Family Planning Waiver recipients;
2. LaCHIP Affordable Plan recipients;
3. Program of All Inclusive Care for the Elderly (PACE) recipients;
4. Native American recipients; and
5. recipients who have primary health insurance coverage provided by:
  - a. Medicare; or
  - b. a private health insurance carrier.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:67 (January 2010), amended LR 36:

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.

**Public Comments**

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

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outpatient Hospital Services Radiology  
Utilization Management**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 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 federal revenue collections other than the federal share for promulgation. It is anticipated that \$123 will be collected in FY 09-10 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 rule proposes to amend the provisions governing radiology utilization management (RUM) for outpatient hospital services to exclude certain Medicaid recipients from the prior authorization requirements of radiology utilization management. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1005#106

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

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

Pharmacy Benefits Management Program  
Medication Administration  
H1N1 Immunizations  
(LAC 50:XXIX.123 and 991)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XXIX.123 and §991 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 Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services (DHHS) renewed the declaration of a public health emergency involving novel influenza A (2009 H1N1) on July 24, 2009. The Centers for Medicare and Medicaid Services (CMS) subsequently provided guidance and technical assistance regarding coverage of vaccine administration and the provision of vaccinations at non-traditional care sites. In response to the renewed declaration and CMS guidance, the Louisiana State Health Officer issued an Emergency Order and Protocol to allow eligible pharmacists to administer influenza vaccinations. The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 35, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 10, 2009 Emergency Rule.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXIX. Pharmacy

#### Chapter 1. General Provisions

#### §123. Medication Administration

A. H1N1 Vaccine Administration. The department shall provide coverage for administration of the H1N1 vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and
2. the pharmacist is Medicaid-enrolled.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### Chapter 9. Methods of Payment

#### Subchapter H. Medication Administration Payments

#### §991. Vaccine Administration Fees

A. Effective for dates of service on and after October 10, 2009, the reimbursement to pharmacies for immunization administration (intramuscular or intranasal) performed by qualified pharmacists, is a maximum of \$15.22. This fee includes counseling, when performed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### 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 increasing recipient access to H1N1 vaccinations.

#### Public Comments

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

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Pharmacy Benefits Management Program Medication Administration H1N1 Immunizations

#### 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 an estimated increase in expenses to the state of approximately \$347,595 for FY 09-10, \$672,772 for FY 10-11 and \$853,290 for FY 11-12. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

#### 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 \$1,528,851 for FY 09-10, \$1,992,726 for FY 10-11 and \$1,892,173 for FY 11-12. It is anticipated that \$123 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the

eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the October 10, 2009 emergency rule, amends the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine (approximately 123,272 dosages) by qualified Medicaid enrolled pharmacists. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medical Vendor Program by approximately \$1,876,200 for FY 09-10, \$2,665,498 for FY 10-11 and \$2,745,463 for FY 11-12.

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 and employment.

Don Gregory  
Medicaid Director  
1005#107

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Targeted Case Management  
Nurse Family Partnership Program  
Reimbursement Rate Reduction  
(LAC 50:XV.10701, 11101 and 11103)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50.XV.10701, 11101 and 11103 under 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to: 1) require case management agencies to bill in 15 minute increments; 2) establish cost reporting requirements; and 3) increase the reimbursement rate paid for targeted case management services provided to infants and toddlers (*Louisiana Register, Volume 35, Number 1*). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for TCM to reduce the reimbursement rates. This rate reduction was not applicable to Infants and Toddlers and Early and Periodic Screening, Diagnosis and Treatment case management (*Louisiana Register, Volume 35, Number 9*).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology to further reduce the reimbursement rates paid

for TCM services provided in the Nurse Family Partnership Program and to restrict reimbursement of TCM services in the Nurse Family Partnership Program to prenatal and postnatal services only (*Louisiana Register, Volume 35, Number 7*). This proposed Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 7. Targeted Case Management**

**Chapter 107. Reimbursement**

**§10701. Reimbursement**

A. - E.3 ...

F. Effective for dates of service on or after July 1, 2009, the reimbursement for case management services provided to participants in the Nurse Family Partnership Program shall be reduced to \$115.93 per visit.

1. Medicaid reimbursement shall be limited to prenatal and postnatal services only. Case management services provided to infants and toddlers shall be excluded from reimbursement under the Nurse Family Partnership Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:

**Chapter 111. Nurse Family Partnership Program**

**§11101. Introduction**

A. - B. ...

C. Case management services rendered in the Nurse Family Partnership Program shall be limited to prenatal and postnatal services only.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1036 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§11103. Recipient Qualifications**

A. - B. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1037 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### Public Comments

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

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Targeted Case Management Nurse Family Partnership Program Reimbursement Rate Reduction

#### 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 an estimated programmatic savings to the state of approximately \$497,617 for FY 09-10, \$762,340 for FY 10-11, and \$966,890 for FY 11-12. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

#### 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 \$2,189,997 for FY 09-10, \$2,258,022 for FY 10-11, and \$2,144,082 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the

state general funds will increase to the federally required match.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the July 1, 2009 emergency rule which reduced the reimbursement rates for case management services in the Nurse Family Partnership Program (approximately 16,000 units of service). It is anticipated that implementation of this proposed rule will decrease expenditures for targeted case management services by approximately \$2,688,024 for FY 09-10, \$3,020,362 for FY 10-11 and \$3,110,972 for FY 11-12.

#### 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, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers of Nurse Family Partnership targeted case management services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1005#108

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Corrections Services

Medical Reimbursement Plan  
(LAC 22:I.2101, 2103, and 2105)

In accordance with the provisions of R.S. 15:831, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of LAC 22:I.2101, 2103, and 2105, Medical Reimbursement Plan.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 21. Medical Reimbursement Plan

#### §2101. Medical Reimbursement Plan

A. Purpose—To provide for the implementation and administration of an offender co-payment program.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, and the sheriff or administrator of local jail facilities. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that medical co-payments must comply with the provisions of R.S. 15:831(B)(1).

#### D. Procedures

##### 1. Offenders Housed in State Institutions

a. Procedures concerning medical co-payments shall be followed in accordance with procedures established by the department's medical/mental health director.

b. Offenders shall file a claim with a private medical or health care insurer (or any public medical

assistance program under which the offender is covered and from which the offender may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the offender shall reimburse the department for the cost of medical services provided.

**2. State Offenders Housed in Local Jail Facilities**

a. Any plan for reimbursement of medical and dental expenses incurred by a state offender housed in a local jail facility shall be approved by the secretary prior to implementation of the plan. The plan shall contain language that stipulates that no offender will be denied medical care because of an inability to pay reimbursement or co-payments.

b. The facility shall require that the offender file a claim with a private medical or health care insurer (or any public medical assistance program under which the offender is covered and from which the offender may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the offender shall reimburse the facility for the cost of medical services provided.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:831.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services LR26:331 (February 2000), amended LR 26:2623 (November 2000), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005), amended LR 36:

**§2103. Applicability**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:831(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005), repealed LR 36:

**§2105. Medical Reimbursement Plan Pursuant to R.S.**

**15:831(B)(1)**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:831(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:331 (February 2000), amended LR 26:2623 (November 2000), LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005), repealed LR 36:

**Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on June 8, 2010.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Reimbursement Plan**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local government expenditures. The Department of Corrections currently requires an offender to file a claim with a private or medical health care insurer. This rule change will match existing policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on the Revenue Collections of state or local governmental units as a result of the technical adjustment to an existing regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost or economic benefits 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 as a result of this rule change.

Thomas C. Bickham, III  
Undersecretary  
1005#057

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Juvenile Justice**

**Educational and Work Assignment Experience Incentive  
Program (LAC 22:I.723)**

In accordance with the applicable provisions of R.S. 39:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety and Corrections, Division of Youth Services, Office of Juvenile Justice gives notice of its intent to promulgate §723. Educational and Work Experience Incentive Program. The deputy secretary's purpose for promulgating this Rule is to provide youth the opportunity to acquire employability skills, and to develop a good work ethic through employment in on-campus and off-campus jobs, and to provide pay incentives for accomplishment of specific academic goals; and to integrate restorative justice by assessing a percentage of a youth's incentive compensation in order to make payment toward restitution.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE,  
AND LAW ENFORCEMENT**

**Part I. Corrections**

**Chapter 7. Youth Services**

**Subchapter B. Classification, Sentencing and Service  
Functions**

**§723. Educational and Work Assignment Experience  
Incentive Program**

A. Purpose—to provide youth the opportunity to acquire employability skills, and to develop a good work ethic

through work assignments on-campus and off-campus, and to provide pay incentives for accomplishment of specific academic goals; and to integrate restorative justice by assessing a percentage of a youth's incentive compensation in order to make payment toward restitution.

B. *Applicability*—deputy secretary, undersecretary, assistant secretary, deputy assistant secretaries, deputy undersecretary, facility directors, principals, and all OJJ secure care youth.

C. *Policy*. It is the deputy secretary's policy that there shall be an Educational and Work Experience Incentive Program to provide educational incentives, job assignment training and work opportunities to youth in secure facilities to facilitate their reintegration into the community as responsible citizens upon release from commitment.

D. *Definitions*

*Education Program Coordinator (EPC)*—an educational employee appointed by the Principal who is charged with the responsibility of initial start up, coordination and oversight of the Educational Incentive Program.

*Global Positioning System (GPS)-Active*—a constellation of orbiting satellites put in place by the US Military, and now used for many tracking services. In the OJJ application of GPS, a youth shall wear a GPS receiving device, most likely an ankle bracelet, which will allow a remotely-located person to monitor the youth's exact location 24 hours a day, 7 days a week.

*Off-Campus Work Assignment Program Board of Directors (Work Assignment Program Board)*—a board of directors at each facility where youth are participating in the Off-Campus Work Assignment Program, who shall meet twice a month to discuss the progress of youth assigned off campus, and shall meet as necessary to consider requests for new youth off-campus assignments, and who shall make final decisions regarding off-campus youth assignments, except for those youth adjudicated for offenses falling under Children's Code Article 897.1 as noted in Section IX of this policy. The Board shall be comprised of the following members:

- a. facility director;
- b. principal/assistant principal;
- c. work assignment program coordinator (WAPC);
- d. vocational education teachers;
- e. SSD regional coordinator (if applicable);
- f. youth's probation officer;
- g. program manager;
- h. youth's assigned case manager.

*Off-Campus Work Assignment Supervisor*—work assignment supervisor responsible for supervising and evaluating youth assigned off-campus.

*On-Campus Work Assignment Supervisor*—an employee who supervises and evaluates youth assigned to on campus work assignments.

*Restitution-Court-Ordered*—money that a youth has been ordered to pay by a court.

*Restitution-Owed to the Facility*—money a youth has been ordered to pay through the disciplinary process to reimburse the facility for financial loss due to his misconduct.

*SCR/Contren modules*—student competency record as established by a particular trade/Contren Learning Series

provides the training curricula in more than 30 trades. Contren modules are groupings of classes vocational students must complete to receive credentials in their trade that are nationally recognized.

*Work Assignment Placement Staffing*—a staffing held to place, remove or reassign youth in the on-campus work assignment program. Required participants are as follows:

- a. work assignment program coordinator (WAPC);
- b. on-site work assignment supervisor;
- c. program manager;
- d. case manager.

*Work Assignment Program Coordinator (WAPC)*—an employee appointed by the director, after receiving recommendations from the Principal, who shall be supervised by the director/designee, and who is charged with the responsibility of initial start up, coordination and oversight of the Work Assignment Incentive Program.

*Youth Portfolio*—the portfolio is used as a purposeful collection of student work assignment that exhibits the student's efforts, progress and achievements in one or more areas.

E. *Educational Incentive Program*. The Educational Incentive Program encourages youth to accomplish certain educational goals through participation in the Directors' Club, which offers recognition, participation in special activities and rewards.

1. *Eligibility*:

- a. youth enrolled in the GED program;
- b. youth earning Carnegie units;
- c. youth enrolled in vocational programs;
- d. youth enrolled in an educational/training program leading to college course work; or
- e. youth earning a certificate of achievement.

2. *Enrollment*. Enrollment applications for the Educational Incentive Program [Attachment B.7.2(a)] shall be made available to youth in all living areas and schools. Completed applications are to be turned into the EPC, who shall verify the youth's eligibility to enroll. Upon verification the youth shall be entered into the program.

3. *Youth Progress*. Youth progress, including accomplishments and verification of accomplishments, shall be monitored and reported by the EPC on the Educational Incentive Program Tracking Form [Attachment B.7.2 (b)] to the principal.

4. *Verification of Education Goals*. Youth enrolled in eligible educational programs who meet the goals outlined below will be entitled to participate in the Director's Club once written verification/certification is received. Verification of a youth's accomplishments must accompany the Educational Incentive Program Tracking Form and be maintained in the youth's portfolio. Required verifications/certifications are as follows.

a. For youth enrolled in the GED program or earning Carnegie units, passing the GED test or earning a high school diploma.

b. For youth enrolled in vocational programs, completion of programs/ certifications such as: completion of major components of the Student Competency Record (SCR) as established by the respective trade, completion of contren modules, or attainment of other nationally recognized certifications. Other achievements may be recognized at the discretion of the facility director.

5. Director's Club Activities. With the approval of the director, the EPC shall develop and implement programs which recognize youth for accomplishment of educational goals. Special activities such as off campus trips to colleges or trade schools should be provided when possible. Contingent upon resources, small gifts or monetary rewards may also be available.

6. Program Availability. Not all programs and opportunities are available at all facilities due to restrictions imposed by funding, grants, physical plant, and community participation. The Directors' Club activities and rewards are based on the availability of resources.

F. On-Campus Work Assignment Incentive Program. The On-Campus Work Assignment Incentive Program provides youth with the opportunity to acquire marketable skills, necessary work habits and work experience. Incentive payments will be made based on available resources. All OJJ secure care youth, who have received their GED, high school diploma, or certificate of achievement, are eligible for this program, subject to the screening and placement requirements in Section C.

1. Hours and Incentive

a. Louisiana law provides that youth under the age of 16 may be permitted to work hours per day or no more than 40 hours per week after school hours and during non-school days.

b. Louisiana law provides that youth 16 years of age and older may work any number of hours per day and per week.

c. Incentive to youth may be in the form of wages, learning a skill or gaining work experience.

d. Beginning incentive shall be five cents per hour, and through merit raises, may increase to a maximum of ten cents per hour. Merit raises of one cent per hour may be awarded upon the recommendation of the work assignment supervisor, with the approval of the work assignment program coordinator (WAPC) and director. Payment of incentives and merit raises are contingent upon available resources. If compensation is through the payment of incentives, hourly payments shall range from five to ten cents per hour.

e. Incentives paid shall be deposited in accordance with the procedures established in YS Policy No. B.9.3 "Youth Banking".

2. Job Assignment Announcements and Applications

a. Job assignment announcements shall be developed by potential work assignment supervisors and the WAPC. All Job Assignment Announcements shall be approved by the facility director prior to posting.

b. Job assignment announcements and the Work Experience Incentive Program Application forms shall be posted in all living areas and schools.

3. Application Review and Placement

a. The WAPC shall conduct an initial review of a youth's application to participate in the On Campus Work Assignment Incentive Program, and shall provide copies of the youth's application to the persons attending the Work Assignment Placement Staffing. The copies shall be distributed prior to the staffing to facilitate review of the application.

b. A Work Assignment Placement Staffing shall be held to discuss and reach a consensus concerning the youth's

placement in the On Campus Work Assignment Program. The youth shall be in attendance at this staffing.

c. The outcome of the staffing shall be forwarded to the director for final approval.

4. Medical Clearance. All youth must receive medical clearance prior to beginning work assignments. Medical clearance is defined as "the clinician has found the youth to be physically fit, emotionally stable, and the work assignment does not interrupt the youth's prescribed daily medication schedule". The medical clearance shall be documented in the youth's medical record and a copy sent to the WAPC for filing with the youth's application, utilizing the Medical Clearance Form.

5. Youth's Notification

a. A completed Youth Notification Form confirming a youth's placement in a particular job assignment, following medical clearance, shall be sent to the youth, the work assignment supervisor, the youth's assigned counselor, the dorm leader assigned to the youth's living area, and the youth's portfolio within five working days.

b. A completed Youth Notification Form shall also be sent to those youth who timely applied and were not selected to participate within five days.

6. Work Assignment Program Agreement. An orientation, conducted by the work assignment supervisor, shall be held on the youth's first day of work. A Work Assignment Program Agreement form shall be signed by the youth and work assignment supervisor. The original document shall be maintained by the WAPC, with a copy placed in the youth's portfolio.

7. Weekly Performance Evaluation and Incentive Schedule

a. The work assignment supervisor shall complete a Weekly Performance Evaluation form, documenting how the youth has functioned in his job assignment, along with a Youth Work Assignment Incentive Schedule form and forward these documents to the WAPC on a weekly basis. The work assignment program coordinator shall forward the Youth Incentive Schedule to the facility business office for calculation and processing of the youth's incentive payment. Payments to the youth shall be made from the Youth Welfare Fund in accordance with the guidelines outlined in YS Policy No. B.9.3 "Youth Banking".

b. Copies of all evaluation forms, hours worked, and any other documentation related to performance and pay shall be maintained by both the work assignment supervisor and the WPC, with copies placed in the youth's portfolio.

c. A poor performance evaluation as documented on the work assignment supervisor's Weekly Performance Evaluation Form shall result in a documented conference between the WAPC, the work assignment supervisor, the youth, and the youth's assigned case manager. Youth may be subject to removal from the assigned program or reassignment if the behavior does not improve by the next weekly evaluation report.

8. Removal from Job

a. A work assignment supervisor, the WAPC, the youth's case manager or the group leader assigned to the youth's living area may request removal of a youth from a job assignment by completing a Work Assignment Removal Request and submitting it to the WAPC. The request shall be heard within two working days of receipt of the Work

Assignment Removal Request at a Work Assignment Placement Staffing, which the youth shall attend. If a youth is removed from a job assignment as a result of a staffing or due to poor performance evaluations, a new job assignment shall not occur again for a minimum of 14 days. If the reason for removal was based on a Major Violation Report or a serious incident, the youth shall not be eligible for job reassignment for 90 days.

b. A youth may request the WPC remove him from a current job assignment and/or consider him for another job reassignment by completion of a new Youth Work Assignment Application form.

9. Life Skills Instruction. Instruction and discussion/activities about life skills shall be incorporated into the LaMod process.

G. Off-Campus Work Assignment Incentive Program. The Off-Campus Work Assignment Incentive Program provides work assignment training opportunities with public or private entities and businesses for youth who have obtained a GED or received a high school diploma, with the goal of acquiring necessary work habits, development of marketable skills, work experience and pay incentives.

1. Eligibility:

a. youth who have obtained a GED or high school diploma;

b. written permission has been obtained from a parent/guardian for youth under the age of 18;

c. youth who have demonstrated a willingness and ability to work at locations off of the facility grounds without posing a safety risk to individuals and/or the community, and who are otherwise qualified;

d. youth who are not under investigation for or have a detainer pending legal charges;

e. youth who are not deemed to be a high risk for runaway or escape and/or engaging in additional criminal conduct.

2. Hours and Compensation

a. Louisiana law provides that youth under the age of 16 may be permitted to work eight hours per day or no more than 40 hours per week after school hours and during non-school days.

b. Louisiana Law provides that youth 16 years of age and older may work any number of hours per day and per week.

c. Incentive to youth may be in the form of wages paid by the employer, learning a marketable skill or gaining work experience.

d. Incentive paid shall be deposited in accordance with the procedures established in YS Policy No. B.9.3 "Youth Banking".

e. Incentive wage statements reflecting earnings and available funds shall be provided to the youth following each transaction, detailing balances for drawing accounts, savings accounts and restitution payments.

3. Work Assignment Prohibitions (R.S. 23:161)

a. Louisiana law prohibits minors from being employed in the following occupations:

i. hazardous operations or more than 12 feet above the ground or floor;

ii. with certain dangerous power-driven machinery, punch presses, milling machines, circular saws, radial saws, etc.;

iii. any job or site that is hazardous or injurious to life, health, safety or welfare.

b. Employer must comply with the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Standards.

4. Job Announcements and Applications. The WAPC shall locate suitable job openings through contacts, web searches, and other means as appropriate. Job announcements, applications, and eligibility requirements for off-campus job assignments shall be posted in all living areas and schools.

5. Application Screening and Placement

a. The WAPC shall conduct an initial screening for appropriateness of a youth's participation in the Off-Campus Work Assignment Incentive Program by completing the Screening/Approval Request. Factors such as age, completion of educational requirements, interest, degree of motivation, information gained from youth's assigned case manager and the dorm leader assigned to the youth's living area, as well as adjudication information, shall be documented. The WAPC shall forward each youth's application with his screening report to the members of the Work Assignment Program Board for their review prior to the next scheduled meeting.

b. The Work Assignment Program Board shall meet as needed to make recommendations concerning job placement for youth. The board discussions shall include topics addressed during staffings for furloughs/early release such as the following:

i. is youth on minimum or medium custody level at first quarterly staffing and has a low or moderate offense on the Severity of Offense Scale;

ii. is youth on minimum or medium custody level at the second quarterly staffing if offense is a high or highest offense on the Severity of Offense Scale;

iii. has youth made progress on identified treatment needs;

iv. has youth received a violation report for, and been found guilty of, a Major Code of Conduct Violation within the last 90 days for:

(a). assault or threats of assault (youth/youth);

(b). assault or threats of assault (youth/staff);

(c). contraband (only a positive drug screen or weapon);

(d). escape;

(e). threats and intimidation; or

(f). gang/gang-like organization/activity.

c. The Work Assignment Program Board shall forward its recommendation to the deputy secretary/designee who shall make the final decision for OJJ regarding job placement except for those youth adjudicated for an offense under Children's Code Article 897.1 (see Section 1) or for a sex offense for which the youth is required to register (see Section 10).

d. The WPC shall schedule an interview with prospective employers and prospective youth to discuss work prohibitions, work assignments, evaluation processes, progressive discipline procedures and security procedures.

6. Medical Clearance. Youth must have medical clearance prior to beginning a work assignment. Medical clearance is defined as "the clinician has found the youth to be physically fit, emotionally stable, and the work



assignment does not interrupt the youth's prescribed daily medication schedule". Medical clearance shall be documented in the youth's medical record and a copy sent to the WAPC for filing with the youth's application, utilizing the Medical Clearance Form.

#### 7. Youth's Notification

a. A completed Youth Notification Form confirming a youth's placement in a particular job assignment, following medical clearance, shall be sent to the youth, the parent/guardian, the work assignment supervisor, the youth's assigned counselor, the dorm leader assigned to the youth's living area, and the youth's portfolio within five working days.

b. A completed Youth Notification Form shall also be sent within five days to those youth who timely applied and were not selected to participate.

8. Work Assignment Program Agreement. A youth orientation shall be conducted, while the WAPC is on-site, by the work assignment supervisor on the youth's first day of work. The Work Assignment Program Agreement form shall be completed following the orientation by the youth, the work assignment supervisor and WAPC. The original agreement shall be maintained by the WAPC, with a copy placed in the youth's portfolio.

#### 9. Weekly Performance Evaluation and Incentive Schedule

a. The work assignment supervisor shall complete a Weekly Performance Evaluation Form, documenting how a youth has functioned in his job assignment, along with a Youth Work Incentive Schedule form and forward these documents to the WAPC on a weekly basis. The WAPC shall forward the Youth Incentive Schedule to the facility business office for calculation and processing of the youth's incentive payment if applicable. Payments to the youth's account shall be made in accordance with the guidelines outlined in YS Policy No. B.9.3 "Youth Banking".

b. Copies of all evaluation forms, payroll work assignment hours, and any other documentation related to performance and incentive pay shall be maintained by both the work assignment supervisor and the WAPC, with copies placed in the youth's portfolio.

c. A poor performance evaluation as documented on the work assignment supervisor's Weekly Performance Evaluation form, shall result in a documented conference between the WAPC, the work assignment supervisor, the youth, and the youth's assigned case manager. Youth may be subject to removal from the program or reassignment to an on-campus work assignment if the behavior does not improve by the next weekly evaluation report.

#### 10. Removal from Job

a. A work assignment supervisor, the WAPC, the youth's case manager or the dorm leader assigned to the youth's living area may request removal of a youth from a job assignment by completing a Work-Assignment Removal Request. This request is to be submitted to the WAPC. The request shall be heard at a meeting of the Board, which the youth shall attend, within two working days of receipt of the Work-Assignment Removal Request. If a youth is removed from a job assignment as a result of a staffing or due to poor performance evaluations, a new job assignment shall not occur again for a minimum of 14 days. If the reason for removal was based on a Major Violation Report or a serious

incident, the youth shall not be eligible for job reassignment for 90 days.

b. A youth may request the WAPC remove him from a current job assignment and/or consider him for another job assignment by completion of a new Youth Work Application Form.

11. Life Skills Education. Instruction and discussion/activities about life skills shall be incorporated into the LaMod process.

#### 12. Risk Management Procedures

a. Youth shall be fitted with an active Global Position System (GPS) for tracking and monitoring purposes.

b. Youth shall report to the WAPC at the beginning and end of each work day for placement and removal of the GPS tracking system on their person.

c. The WAPC shall be responsible for monitoring of the GPS tracking system for each youth on a daily basis and maintaining all reports.

d. A weekly GPS tracking report for each applicable youth shall be compiled and forwarded to the director for review.

e. Facility search procedures for youth shall be completed on a daily basis for all participating youth in accordance with YS Policy No. C.2.3.

f. Facility staff shall transport youth back and forth to their job assignment each day.

g. Any security problems noted for steps a – f above shall immediately be brought to the attention of the director.

H. Off-Campus Work Assignment Incentive Program for Youth Adjudicated Under Children's Code Article 897.1. All steps in Subsection G of this Section must be adhered to for those youth adjudicated under Children's Code Article 897.1 seeking placement in an off-campus work incentive program. Youth adjudicated for Aggravated Rape who are required to register as a Sex Offender, must also comply with Subsection I below. Additionally, the youth's application must go through the following steps.

1. Approval from both the Off-Campus Work Assignment Program Board of Directors, as well as the deputy secretary/designee must be granted utilizing the Screening/Approval Request form.

2. Following approval of the deputy secretary/designee, a Notice to the Court and district attorney of the Work Assignment Incentive Program Furlough utilizing the "Off-Campus Work Assignment Incentive Program Screening/Approval Request", shall be sent to the judge sentencing the youth for the Ch.C. Art. 897.1 offense, and also include a progress report containing the following:

- a. educational/vocational information;
- b. amount/percentage of time served for adjudicated commitment;
- c. current custody level;
- d. treatment progress;
- e. parental/guardian involvement or contact attempts in youth's treatment.

3. The judge and district attorney must approve the work furlough for the youth to leave the grounds. If the district attorney objects, the OJJ attorney shall request that a contradictory hearing be set in the matter.



I. Off-Campus Work Assignment Incentive Program for Youth Adjudicated Delinquent for a Sex Offense for Which the Youth Is Required To Register. All steps in Subsection G of this Section must be adhered to for those youth seeking placement in an off-campus work assignment incentive program who have been adjudicated delinquent for a sex offense for which the youth is required to register. Additionally, the youth's application must go through the following steps to be approved.

1. Approval from both the Off-Campus Work Assignment Program Board, as well as the deputy secretary/designee must be granted utilizing the "Off-Campus Work Assignment Incentive Program Screening/Approval Request".

2. Following approval by the deputy secretary/designee, the Central Office Furlough Coordinator shall notify the Louisiana Bureau of Criminal Identification and Information (Bureau) of the work furlough by completing and faxing the "Notification of Granting of Off-Campus Work Assignment Incentive Program Furlough", to the bureau 48 hours prior to the youth reporting to the off-campus work assignment. The notification and proof of its transmission shall be maintained by the Central Office Furlough Coordinator with copies forwarded to the WAPC and the director.

J. Drug Screening. Periodic drug screens shall be conducted in accordance with Youth Services Policy C.2.7 or at the discretion of the director.

K. Restitution. Incentive payments made to a youth are subject to the payment of restitution assessed through the disciplinary process in accordance with Youth Services Policy B.5.2 and/or by order of the court for restitution.

L. Program Report. An annual report shall be prepared by both the education program coordinator and the work assignment program coordinator and submitted to the deputy secretary/designee. The report shall include the number of youth who have participated in the program, the number of job assignments, job assignment duration, educational and work assignment incentive amounts paid, and restitution payment amounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:905, and 36:405.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Division of Youth Services, Office of Juvenile Justice, LR 36:

#### **Family Impact Statement**

In accordance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by helping to provide the youth the opportunity to acquire employability skills, and to develop a good work ethic through employment in on-campus and off-campus jobs, and to provide pay incentives for accomplishment of specific academic goals; and to integrate restorative justice by assessing a percentage of a youth's incentive compensation in order to make payment toward restitution.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been

considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons should submit written comments on the proposed Rule to Phyllis Martello through the close of business on June 10, 2010 at P.O. Box 66458, Baton Rouge, LA 70896 or 7919 Independence Boulevard, Baton Rouge, LA 70806. Comments may also be submitted by email to: Phyllis.Martello@la.gov.

Mary L. Livers  
Deputy Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Education and Work Assignment Experience Incentive Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that the work incentive program will have a cost of \$5,300 to \$20,000 per year, depending upon the number of qualifying youth that participate in the program, the hours of incentive awards earned and the incentive rate (ranging from \$0.05 to \$0.10 per hour). At the current time, there are approximately 51 youth that qualify for participation among the agency's three secure care facilities, 50 holding GEDs (33 at SCY, 10 at BCCY and 7 at JCY) and 1 holding a high school diploma at SCY. For purposes of the cost estimate, it is assumed that 100% of qualifying youth would participate and work a full-time equivalent schedule each week of 40 hours. At an incentive rate of \$0.05, the annual cost would be \$5,300. At an incentive rate of \$0.10, the annual cost would be \$10,600. The upper range of the cost estimate is set at \$20,000 to account for the potential that the population could shift in the future and realize higher participation levels.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no impact on revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Providing an incentive for youth to acquire employability skills, develop good work ethics, and develop budgeting and financial skills will have direct and material benefits as he transitions out of the justice system. The program will also integrate restorative justice by assessing a percentage of a youth's incentive compensation to make payments toward restitution. The youth will earn \$0.05 per hour and will be eligible for merit increases up to \$0.10 per hour.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition. At the current time, the youth will be employed within the secure care facilities or by private companies offering mentor/job training opportunities to these specific youth. Participation in the program will provide job skills beneficial to the youth as they

transition out of the justice system and seek to gain employment.

Mary L. Livers  
Deputy Secretary  
1005#059

Robert E. Hosse  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of State Police

#### Motor Vehicle Inspection (LAC 55:III.813)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., gives notice of its intent to promulgate amended rules providing for a simplified brake test to be conducted by inspection stations and extending the medical exemption (to the window tint requirements) for persons over 60 years of age.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 8. Motor Vehicle Inspection

#### §813. Required Equipment

A. - C.5. ...

D. Brakes

1. Every vehicle required to be equipped with brakes must be tested. The mechanic inspector shall take physical control of the vehicle presented for inspection to determine if the brakes are operating correctly.

2. The test shall be made on a substantially level, dry, smooth, hard surface that is free from loose material. The vehicle shall not pull to the right or the left causing the vehicle to excessively alter its direction of travel.

3. A platform brake tester may be used instead of performing the brake test. Before attempting to inspect a vehicle's brakes with a platform brake tester, the mechanic inspector shall be trained on and have experience in the use of the machine. The machine shall have adequate capacity. The mechanic inspector shall follow all tester manufacturers' directions.

4. Classifications for Brake Application

a. Single unit vehicles with a manufacturer's gross weight rating of 10,000 pounds or more shall have a braking distance of 40 feet.

b. Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less shall have a braking distance of 40 feet.

c. Buses, regardless of the number of axles, not having a manufacturer's gross weight rating shall have a braking distance of 40 feet.

d. All combinations of vehicles in drive away, tow-away operations shall have a braking distance of 40 feet.

e. All other combination vehicles shall have a braking distance of 50 feet.

E. Brake Requirement

1. Any vehicle registered as a farm trailer, farm semi-trailer, rubber-tired farm wagon, drawn rubber-tired farm equipment or implements of husbandry manufactured or assembled prior to January 1, 1973, and operated or moved

only incidentally on the highways of this state, shall be exempt from brake requirements provided that:

- a. the gross weight does not exceed 10,000 pounds;
- b. the speed does not exceed 30 miles per hour;
- c. fertilizer distributors or spreaders are exempt

from brake requirements. Commercially owned anhydrous ammonia nurse tank trailers used for the transportation and storage of fertilizer are exempt from the braking requirements.

2. Every registered vehicle when presented for inspection shall be equipped with brakes in accordance with the requirements herein stated.

a. Every motor vehicle, other than motorcycles or motor driven cycles, shall be equipped with brakes adequate to control movement of and to stop and hold movement of such vehicle. Two separate means of applying brakes are required, each of which shall effectively apply brakes to at least two wheels.

b. Every motorcycle and every motor driven cycle shall be equipped with at least one brake which may be operated by hand or foot.

c. Every motorcycle and every motor driven cycle manufactured with two wheels shall be required to be equipped with brakes on both wheels.

d. Every 1963 or later model year motor vehicle shall be equipped with brakes on all wheels.

e. Every trailer or semi-trailer exceeding 3,000 pounds gross weight shall be equipped with brakes acting on all wheels.

3. The following exceptions exist.

a. Trailers and semi-trailers having a gross weight between 3,000 pounds and 5,000 pounds need only be equipped with brakes on a single axle.

b. Trailers and semi-trailers manufactured or assembled prior to January 1, 1963, need only be equipped with brakes on a single axle provided the combination of vehicles, consisting of the towing vehicle and its total load, is capable of complying with the performance requirements.

c. Farm trailers and semi-trailers manufactured or assembled prior to January 1, 1973, need not be equipped with brakes. Every farm trailer and farm semi-trailer manufactured or assembled on or after January 1, 1973, and having a gross weight exceeding 3,000 pounds shall be equipped with brakes in accordance with the requirements set forth above.

d. Log trailers shall be exempt from brake requirements until January 1, 1973, after which time they shall be equipped with brakes in accordance with the requirements set forth above.

e. Trucks and truck-tractors, 1963 and older, which have had an additional axle and wheels (tag axle) added for the purpose of allowing a greater payload must be capable of complying with brake performance requirements for the additional weight or be equipped with brakes on the additional tag axle in order to meet the brake performance requirements.

f. Vehicles carrying forest products in their natural state shall not be required to have a brake on the drag axle if the wheels of the drag axle touch the ground only when the vehicle is loaded. However, this provision does not apply to trailers or trucks with more than two axles.

F. - S.3. ...

T. Windows and Glass Sunscreening and Glass Coating

1. - 6. ...

7. Exceptions to the Sunscreen Rule

a. Sunscreen regulations do not apply to windows behind the driver of trucks, buses, trailers, motor homes, multi-purpose passenger vehicles and all windows of vehicles used for law enforcement purposes.

b. Vehicles with sunscreen certificates as stated above.

c. A person with a medical condition which makes that individual sensitive to sun exposure may obtain a Medical Exemption Affidavit form provided by the Department of Public Safety and Corrections from the Office of State Police. The waiver must be completed and signed by an optometrist, or physician, including but not limited to an ophthalmologist, or dermatologist licensed to practice in this state and must be approved by the Deputy Secretary or his designee.. This waiver exempts the vehicle identified on the affidavit from all restrictions as provided in R.S. 32:361.1. The Medical Exemption Affidavit shall:

i. be valid for a period of not more than 3 years, except for the following provisions;

(a). The registered owner of the vehicle is 60 years and older at the time of application for a Medical Exemption Affidavit, or the individual becomes 60 years old while in possession of a valid Medical Exemption Affidavit, then the affidavit will be valid for the duration of that individual's ownership of the vehicle as provided in LRS 32:361.2(A)(3)(c) unless deemed otherwise by the Department.

(b). The applicant for the Medical Exemption Affidavit is 60 years and older at the time of application for a Medical Exemption Affidavit, or the individual becomes 60 years old while in possession of a valid Medical Exemption Affidavit, but is not the registered owner of the vehicle, in which case the Department shall review the case as provided in LRS 32:361.2(A)(3)(b) and LRS 32:361.2(A)(3)(c).

ii. be valid only for vehicles registered in this state where the registered owner, spouse or immediate family member has an approved affidavit that shall be kept in the motor vehicle at all times;

iii. not be applied for, or issued to, persons convicted of crimes of violence as defined in LRS 14:1 (13) or criminal offenses involving controlled dangerous substances as defined in LRS 40:961 et. Seq.

iv. be returned to applicant, if approved, by U.S. Mail;

v. be non-transferable.

vi. be valid for the duration of ownership of a vehicle whose owner is age 60 years or older.

T.7.d. - EE.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2428 (December 1999), amended LR 28:345 (February 2002), LR 36:

**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. This Rule 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 rules.

**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 June 15, 2010.

Jill Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Motor Vehicle Inspection**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no cost to state and local agencies for implementation of these rules. The proposed rules simplify the brake test for motor vehicle inspections and extend the exemption of the window tint requirements for a vehicle owned by a person 60 years old with a medical condition for the duration of the individual's ownership of the vehicle. Currently individuals must apply for the exemption annually.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State and local governmental units will experience an indeterminate minimal decrease in revenue from the reduced number of fingerprint cards sold and from the reduced number of background checks performed on persons applying for renewal of the medical exemption to the window tint requirements. Persons applying for the exemption pay a \$60 fee, \$15 to purchase a fingerprint card from State Police or local law enforcement and \$45 to State Police for a background check.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Louisiana residents over the age of 60 who apply for, or already possess, a medical exemption from the window tint requirements will experience a reduction in costs for the exemption as they will not be required to renew the exemption as often. Instead of renewing the vehicle's exemption annually, for persons 60 years and older, the exemption will be valid for the duration of the individual's ownership of the vehicle.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rules will have no impact on competition and employment.

Jill Boudreaux  
Undersecretary  
1005#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

State Uniform Construction Code  
(LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22 (C) and (D), R.S. 40:1730.28 and R.S. 40:1730.34 (B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby proposes to amend Chapter 3, Section 301, which amendments will update the various construction codes by adopting the 2009 editions, with certain noted deletions and amendments. These updated codes are to take effect on January 1, 2011.

**Title 55**

**PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 3. Adoption of the Louisiana State Uniform Construction Code**

**§301. Louisiana State Uniform Construction Code**

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2011 (excepting the National Electric Code which is presently in effect), the following is hereby adopted as the Louisiana State Uniform Construction Code. (The "Louisiana State Plumbing Code" shall replace all references to the "International Plumbing Code" in the following codes)

1.a. International Building Code(IBC), 2009 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical and Chapter 29, Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the International Building Code.

i. Delete Chapter 4, Section 403.5.5: Luminous Egress Path Markings.

ii. Substitute Chapter 5, Table 503 Allowable Building Height Modifications of the 2006 IBC, in lieu of Table 503 of the 2009 IBC.

iii. Amend Chapter 10, Section 1018.5 Air Movement in corridors. *Corridors* that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

iv. Amend Chapter 23, Section 2308.2, Exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in Exposure Category B.

2. International Existing Building Code(IEBC), 2009 Edition, not including Chapter 1, Administration, and the

standards referenced in that code for regulation of construction within this state.

3.a. International Residential Code, 2009 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For purposes of this part, section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2009 edition. Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

i. amendment of R301.2.1.1 (Design Criteria);

ii. item 5, Concrete construction shall be designed in accordance with the provisions of the 2009 IRC.

iii. item 6, the American Concrete Institute, Guide to Concrete Masonry Residential Construction in High Winds Areas, shall be added;

iv. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;

v. item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

vi. item 9, International Code Council ICC Standards for Residential Construction in High Wind Regions.(ICC-600), shall be added.

vii. item 10, Structural Insulated Panel (SIP) wall shall be designed in accordance with the provisions of the 2009 IRC.

b. Additionally, Section 302, R302.1 Exterior Walls shall be amended to add the following exception.

i. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

(a). a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside;

(b). a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

c. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Substitute Chapter 3, Section R317 Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313 Automatic Fire Sprinkler Systems of the 2009 IRC.

ii. Amend Chapter 3, Section R315.2 Where Required in Existing Dwellings: When Alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwelling that have garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

iii. Substitute Chapter 11, Energy Efficiency of the 2006 IRC, in lieu of Chapter 11 Energy Efficiency of the 2009 IRC.

4.a. International Mechanical Code (IMC), 2009 Edition, and the standards referenced in that code for regulation of construction within this state. Also included for regulation, the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code. Furthermore, the International Mechanical Code, 2006 Edition, Chapter 1, Section 101.2 Scope is amended as follows: Exception: Detached one- and two- family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code. Furthermore, IMC shall be amended to include the following:

i. Amend Chapter 1, Section 103.2. The code official shall be appointed by the chief appointing authority of the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

ii. Amend Chapter 6, Section 606.4.1 Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the International Fire Code or locally adopted fire code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location.

5. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

6. International Fuel Gas Code (IFCG), 2009 Edition, and the standards referenced in that code for regulation of construction within this state.

7. National Electric Code (NEC), 2008 Edition. This Code is to become effective on January 1, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:

#### **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. This Rule 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.

#### **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 June 15, 2010.

Jill Boudreaux  
Undersecretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Uniform Construction Code**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. These rule changes adopt the most recent construction codes with specified alterations to certain sections of those codes. The proposed rules will impact local governmental units in that they will have to purchase new construction code books and will have to train their code officers on the changes to the various codes. However, federal grants may be available to local government units to purchase the code books and training will likely be provided by the Louisiana State Uniform Construction Code Council.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is anticipated to be no impact on revenue collections as a result of these rules.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The adoption of these rule changes are anticipated to have an impact on costs and/or benefits to the affected construction industry as well as to prospective homeowners. The specific impact on the construction industry and the homeowners cannot be determined.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes should not significantly affect competition or employment.

Jill P. Boudreaux  
Undersecretary  
1005#055

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

National Center for Construction Education and Research  
Apprenticeship Tax Credits  
(LAC: 61:I.1909)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6033, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1909 relative to apprenticeship tax credits.

Act 472 of the 2007 Regular Session of the Louisiana Legislature enacted R.S. 47:6026 to allow apprenticeship tax credits against income and corporation franchise tax to certain employers. The section was redesignated as R.S. 47:6033 pursuant to the statutory revision authority of the Louisiana State Law Institute. This Rule will clarify the application of apprenticeship tax credits for certain employers. This Rule will only apply to the National Center for Construction Education and Research portion of the apprenticeship tax credit.

#### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 19. Miscellaneous Tax Exemptions

#### §1909. National Center for Construction Education and Research Apprenticeship Tax Credits

A. Revised Statute 47:6033 provides certain employers a non-refundable apprenticeship tax credit against Louisiana individual or corporation income tax or corporation franchise tax equal to one dollar for each hour of employment of each eligible apprentice, not to exceed 1,000 hours for each eligible apprentice.

B. In order to be considered an "eligible apprentice", a student must be enrolled in a training program accredited by the National Center for Construction Education and Research (NCCER), must have successfully completed no less than two levels of training, and must have attained no less than 250 hours of instruction.

1. An apprentice becomes an "eligible apprentice" upon enrollment to the third level and the fourth level of a training curriculum. Enrollment to the third and fourth levels are allowed when successful completion of prior levels of training are achieved.

2. The apprentice will be considered enrolled for the tax year in which the apprentice started a particular level of training.

3. An employer may claim a credit for an "eligible apprentice" only once for each particular level of training.

C. Eligible employers will be responsible for obtaining and retaining student transcript information from the (NCCER) for each eligible apprentice for which the credit is claimed. Employers must also retain:

1. the name of the student enrolled in the training program;

2. the social security number of the student enrolled in the training program;

3. the level of training attained by the student enrolled in the training program;

4. the number of hours worked by the student enrolled in the training program;

5. any other information required by the Secretary of the Department of Revenue.

D. The Louisiana Workforce Commission portion of the apprenticeship tax credit can be found at LAC 40:IX. Chapter 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6033.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:

#### Family Impact Statement

The proposed adoption of LAC 61:I.1909, regarding apprenticeship tax credits 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. The implementation of this proposed Rule will have 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 budgets;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

#### Public Comments

Any interested person may submit written data, views, arguments, or comments regarding this proposed Rule to Vanessa LaFleur, Director, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., June 23, 2010.

#### Public Hearing

A public hearing will be held on June 24, 2010, at 1:00 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: National Center for Construction Education and Research Apprenticeship Tax Credits

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no additional costs to implement this proposed rule. Revised Statute 47:6033 allows certain employers to claim apprenticeship tax credits against individual income tax or corporation income tax or corporation franchise tax. The proposed rule will clarify the application of the apprenticeship tax credits for those employers.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revised Statute 47:6033 provides certain employers a non-refundable apprenticeship tax credit against Louisiana individual or corporation income tax or corporation franchise tax equal to one dollar for each hour of employment of each eligible apprentice, not to exceed 1,000 hours for each eligible

apprentice. The fiscal note accompanying the enabling legislation (Act 472 of the 2007 Regular Session) estimated a decrease in state revenue of \$3.5 million for FY 11. This amount provides the maximum exposure to the state. Actual collections in the first year of the program, tax year 2008, indicate state costs of about \$640,000 but could increase as the program becomes more widespread. The program is effective through tax year 2010 which will impact the state revenue collections in FY 11.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Employers who hire eligible apprentices shall be allowed tax credits against individual and corporation income tax and corporation franchise tax equal to one dollar for each hour of employment of each eligible apprentice, not to exceed 1,000 hours for each eligible apprentice. The fiscal note accompanying the enabling legislation (Act 472 of the 2007 Regular Session) estimated a decrease in state revenue of \$3.5 million per year, but actual claims in the first year totaled about \$640,000. This program has been in effect since the 2008 tax year.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges  
Secretary  
1005#058

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Physically Challenged Hunters Permit (LAC 76:XIX.105)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the Physically Challenged Hunters Permit.

#### Title 76

#### WILDLIFE AND FISHERIES

#### PART XIX. HUNTING AND WMA REGULATIONS

#### Chapter 1. Resident Game Hunting Season

#### §105. Physically Challenged Hunters Permit

##### A. Definitions

*ATV*—an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 lbs; length-85"; width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

*Commission*—the Louisiana Wildlife and Fisheries Commission.

*Commission Approved Physician*—any physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who evaluates permit applicants to determine the Physically Challenged Hunter Rule classification of permanent disability. Also, includes any Louisiana licensed optometrist or ophthalmologist to determine visual impairment.

*Department*—the Louisiana Department of Wildlife and Fisheries.

*Enforcement Division*—the Enforcement Division of the Louisiana Department of Wildlife and Fisheries.

*Helper*—an individual who accompanies a permitted physically challenged hunter to assist the physically challenged hunter in accessing a hunting area, carrying hunting gear, and retrieving harvested game.

*Permanent Disability*—a qualifying disability that a Commission Approved Physician has determined will not improve over time or with medical treatment.

*Physically Challenged ATV Permit*—a permit issued by the Wildlife Division to certain physically challenged hunters to allow access to the specially designated ATV trails on Wildlife Management Areas.

*Physically Challenged Hunter Permit*—a permit issued by the Department of Wildlife and Fisheries to qualified physically challenged individuals.

*Special Deer Season*—a special deer season only for individuals with valid Physically Challenged Hunter Permits established by the Louisiana Wildlife and Fisheries Commission.

*Special Physically Challenged Hunt*—special hunt or hunts on certain W.M.A.s only for individuals with valid physically challenged Hunter Permits.

*W.M.A.*—a tract of land managed by the Louisiana Department of Wildlife and Fisheries and proclaimed as a Wildlife Management Area by the governor of Louisiana.

*Wildlife Division*—the Wildlife Division of the Louisiana Department of Wildlife and Fisheries.

#### B. Wheelchair Bound

##### 1. Qualifications

a. *Permanent Disability*. The disability must permanently confine the applicant to the use of a wheelchair. If the Applicant may eventually recover enough to not require the use of a wheelchair, he or she does not qualify for this class permit. If the future prognosis is uncertain, the applicant does not qualify at this time.

##### b. Certification By *Commission Approved Physician*

i. Applicants must be certified permanently disabled and confined to a wheelchair by:

(a) a *Commission Approved Physician*;

ii. Should the *Commission Approved Physician* determine the applicant is not permanently confined to a wheelchair for medical reasons, the application is rejected and no permit shall be issued. If approved by the physician, the *Enforcement Division* must complete a wildlife criminal history check. The application must then be forwarded to the *Wildlife Division* Administrator for approval or disapproval.

##### c. Disqualification

i. Applicants not disabled sufficiently to meet the confined to a wheelchair criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, WMA or littering violations within the last five years, as determined by the *Enforcement Division*, shall not be issued permits. Fishing and boating violations are excluded.

#### 2. Approved Applicants Receive the Following Considerations

a. Special Physically Challenged Hunts. May participate in special W.M.A. hunts.

b. Special Deer Seasons

i. May participate in special statewide Physically Challenged Hunts.

c. Access To Wildlife Management Areas. Permittees of this class shall receive a *Physically Challenged ATV permit* for access to specially designated ATV trails on W.M.A.s.

d. Hunting From Vehicles. May hunt resident game from a stationary vehicle or stationary boat statewide, provided that this activity does not violate state or parish laws.

e. Helpers. Permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a Helper unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the *Helper* is hunting. Permittee is allowed one extra *ATV* for his helper(s). At no time will parked or unattended helper's *ATV* and permittee's *ATV* be placed at separate locations.

### 3. Conditions of Approval

a. Nontransferable. The *Physically Challenged Hunter Permit* is non-transferable and is valid for named permittee only.

#### b. Permit in Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of photo identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying Physically Challenged hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or *W.M.A.* regulations. (See Subparagraph B.2.e.)

#### d. All Terrain Vehicles

i. *ATVs* may be used only on regular public *ATV* trails and specially designated *ATV* trails on *W.M.A.* maps.

ii. Approved individuals (Permittees & Helpers) may drive the *ATV* to a stand within 100 yards of an *ATV* trail. The *ATV* may also be used to retrieve the permittees harvested deer or hogs. Travel on an *ATV* beyond 100 yards of the designated trail, except to retrieve a deer or hogs, is prohibited.

e. Other Licenses Required. The issuance of a *Physically Challenged Hunter permit* does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittees possession while hunting.

#### f. Revocation

i. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the *Wildlife Division Administrator*. If said change is sufficient to make the permanent use of a wheelchair unnecessary, the permit shall be revoked.

#### g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the *Department*.

ii. The *Department* shall retain the right to change the duration and/or conditions of the Disabled Hunter Permits to comply with future Commission or Legislative actions.

#### h. Cost. None

### C. Mobility Impaired

#### 1. Qualifications

##### a. *Permanent Disability*

i. The disability must be permanent and impair the applicant sufficiently to preclude walking farther than very short distances (Cannot walk 200 feet without stopping to rest) even with mechanical aids. If the applicant may eventually recover, or if the future prognosis is uncertain, the applicant does not qualify at this time; provided however, individuals who are temporarily disabled for a minimum of one year duration may be issued this permit for a period of one year only. If the condition still exists after one year, the individual would have to reapply and be issued a new permit.

ii. Qualifying disabilities under this class may include, but are not limited to:

(a). permanent and continual use of artificial limbs, crutches, leg braces, or canes due to injury, disease, or birth defect. Cannot walk without the assistance of another person, walker, cane, crutches, braces, or prosthetic device, or temporary use of a wheelchair;

(b). defects of circulatory system, respiratory system, skeletal structure, or neurological disorders caused by disease, injury, or birth defect. Applicant must be restricted by a lung disease to such an extent that the person's forced (respiratory) volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest, or uses portable oxygen, or has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association, or has a diagnosed disease or disorder, including a severe arthritic, neurological, or orthopedic impairment, which creates a severe mobility limitation;

iii. Nonqualifying disabilities may include, but are not limited to:

(a). vision impairment;

(b). arm, hand, shoulder, or other impairments that do not affect walking;

(c). any impairment considered to be a part of or resulting from the normal aging process;

(d). any impairment resulting from or due to a lack of physical conditioning.

##### b. Certification By *Commission Approved Physician*

i. Applicants must be certified permanently disabled and mobility impaired by:

(a). a *Commission Approved Physician*;

ii. Should the *Commission Approved Physician* determine the applicant is not permanently mobility impaired, the application is rejected and no permit shall be issued. If approved by the physician, the *Enforcement Division* must complete a wildlife criminal history check. The application must then be forwarded to the *Wildlife Division Administrator* for approval or disapproval.



c. Disqualification  
i. Applicants not disabled sufficiently to meet the mobility impaired criterion shall not qualify for the class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, *WMA* or littering violations within the last five years, as determined by the *Enforcement Division*, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Physically Challenged Hunts. May participate in special *W.M.A.* hunts.

b. Special Deer Seasons. May participate in special statewide physically challenged hunts.

c. Access To Wildlife Management Areas. Permittees of this class shall receive a *Physically Challenged ATV permit* for access to specially designated *ATV* trails on *W.M.A.s.*

d. Helpers. Permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a *Helper* unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the *Helper* is hunting. Permittee is allowed one extra *ATV* for his *helper(s)*. At no time will parked or unattended helper's *ATV* and permittee's *ATV* be placed at separate locations.

3. Conditions of Approval

a. Nontransferable. The *Physically Challenged Hunter Permit* is non-transferable and is valid for named permittee only.

b. Permit In Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of photo identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying Physically Challenged hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or *W.M.A.* regulations. (See Subparagraph C.2.d.)

d. All Terrain Vehicles

i. *ATVs* may be used only on regular public *ATV* trails and *ATV* trails on *W.M.A.* maps.

e. Other Licenses Required. The issuance of a *Physically Challenged Hunter Permit* does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the permittee's possession while hunting.

f. Revocation

i. Any violation of the permit conditions by the permittee and/or *helper* of wildlife laws and/or regulations may result in cancellation of the permit.

ii. Should there be a change in the permittee's condition, the permittee must notify the *Wildlife Division* Administrator. If said change is sufficient to enable the permittee to walk more than 200 feet without stopping to rest the permit shall be revoked.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the *Department*.

ii. The *Department* shall retain the right to change the duration and/or conditions of the *Physically Challenged Hunter Permits* to comply with future Commission or Legislative action.

h. Cost. None.

D. Amputee of the Upper Extremity

1. Qualifications

a. *Permanent Disability*. The applicant must have an amputation of at least one arm, hand, or all five fingers of one hand to qualify for a permit of this class.

b. Certification By *Commission Approved Physician*

i. Applicants must be certified permanently disabled as an amputee of the upper extremity by a *Commission Approved Physician*.

ii. Should the *Commission Approved Physician* determine the applicant is not an amputee of the upper extremity, the application shall be rejected. If approved by the physician, the *Enforcement Division* must complete a wildlife criminal history check. The application must then be forwarded to the *Wildlife Division* Administrator for approval or disapproval.

c. Disqualification

i. Applicants not disabled sufficiently to meet the amputee of the upper extremity criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, *WMA* or littering violations within the last five years, as determined by the *Enforcement Division*, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Physically Challenged Hunts. May participate in special *W.M.A.* hunts.

b. Special Deer Seasons. May participate in special statewide Physically Challenged hunts.

c. Access To Wildlife Management Areas. Permittees of this class shall receive a *Physically Challenged ATV permit* for access to specially designated *ATV* trails on *W.M.A.s.*

d. Helpers. Permittee may be accompanied by helpers (no more than two) as necessary to get to and from a hunting area or stand and to assist in retrieving harvested game. Helpers may not use or possess firearms/bows/crossbows when acting as a *Helper* unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the *Helper* is hunting. Permittee is allowed one extra *ATV* for his *helper(s)*. At no time will parked or unattended helper's *ATV* and permittee's *ATV* be placed at separate locations.

3. Conditions of Approval

a. Nontransferable. The *Physically Challenged Hunter Permit* is nontransferable and is valid for named permittee only.

b. Permit In Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of photo identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying Physically Challenged hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or *W.M.A.* regulations. (See Subparagraph D.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and Physically Challenged ATV trails as specially designated on *W.M.A.* maps.

e. Other Licenses Required. The issuance of a *Physically Challenged Hunter permit* does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the Permittees possession while hunting.

f. Revocation. Any violation of the permit conditions by the permittee and/or helper of wildlife laws and/or regulations may result in cancellation of this permit.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the *Department*.

ii. The *Department* shall retain the right to change the duration and/or conditions of the *Physically Challenged Hunter Permits* to comply with future Commission or Legislative action.

h. Cost. None.

E. Visually Impaired

1. Qualifications

a. *Permanent Disability*. The applicant must have an impairment of visual functioning, even after treatment and/or standard refractive correction, and has a visual acuity of equal to or less than 20/200 to light perception, or a visual field of less than ten degrees from the point of fixation, as certified by a Louisiana licensed optometrist or ophthalmologist to qualify for a permit of this class.

b. Certification By *Commission Approved Physician*

i. Applicants must be certified permanently disabled as visually impaired by a *Commission Approved Physician*.

ii. Should the *Commission Approved Physician* determine the applicant is not visually impaired, the application shall be rejected. If approved by the physician, the *Enforcement Division* must complete a wildlife criminal history check. The application must then be forwarded to the *Wildlife Division Administrator* for approval or disapproval.

c. Disqualification

i. Applicants not disabled sufficiently to meet the visually impaired criterion shall not qualify for this class permit.

ii. Applicants with felony convictions or with Class Two or above wildlife convictions, *WMA* or littering violations within the last five years, as determined by the *Enforcement Division*, shall not be issued permits. Fishing and boating violations are excluded.

2. Approved Applicants Receive the Following Considerations

a. Special Physically Challenged Hunts. May participate in special *W.M.A.* hunts.

b. Special Deer Seasons. May participate in special statewide Physically Challenged hunts.

c. Access To Wildlife Management Areas. Permittees of this class shall receive a *Physically Challenged ATV permit* for access to specially designated ATV trails on *W.M.A.s*.

d. Helpers. The permittee shall be accompanied by another licensed hunter and only the person holding the physically challenged hunter permit may discharge the firearm. Helpers may not use or possess firearms/bows/crossbows when acting as a *Helper* unless the weapon is legal for the game hunted and the season is open to all licensed hunters in the area the *Helper* is hunting. Permittee is allowed one extra ATV for his *helper(s)*. At no time will parked or unattended helper's ATV and permittee's ATV be placed at separate locations.

e. The permittee shall be permitted to use a laser sight or sighting device which projects a beam of light to the target only.

3. Conditions of Approval

a. Nontransferable. The *Physically Challenged Hunter Permit* is nontransferable and is valid for named permittee only.

b. Permit In Possession

i. The permit must be carried by named permittee at all times while hunting in the field or transporting game harvested under the permit.

ii. Permittee must, in addition to the permit, carry one other form of photo identification while hunting or transporting harvested game.

c. Helpers. Helpers accompanying Physically Challenged hunters are not permitted to carry firearms/bows/crossbows except as provided for by statewide or *W.M.A.* regulations. (See Subparagraph E.2.d.)

d. All Terrain Vehicles

i. ATVs may be used only on regular public ATV trails and specially designated ATV trails on *W.M.A.* maps.

e. Other Licenses Required. The issuance of a *Physically Challenged Hunter permit* does not exempt the permittee from other license requirements. All applicable licenses required to hunt a particular species of game must be purchased and in the Permittees possession while hunting.

f. Revocation. Any violation of the permit conditions by the permittee and/or *helper* of wildlife laws and/or regulations may result in cancellation of this permit.

g. Duration

i. This permit is valid for the lifetime of named permittee or until revoked by the *Department*.

ii. The *Department* shall retain the right to change the duration and/or conditions of the Physically Challenged Hunter Permits to comply with future Commission or Legislative action.

h. Cost. None

AUTHORITY NOTE: Promulgated in accordance with Act 1226 of the 1995 Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 22:856 (September 1996), amended LR 34:1444 (July 2008), LR 36:

#### Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent

will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

#### **Public Comments**

Interested persons may submit written comments on the proposed rule to Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Tuesday, July 6, 2010.

Stephen J. Oats  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Physically Challenged Hunters Permit**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no state or local governmental implementation costs or savings associated with this proposed rule change

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is anticipated to 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)**

Physically challenged individuals who meet the qualification criteria to be classified as visually impaired will be directly impacted by the rule change. They will be allowed to use a laser sight or sighting device which projects a beam of light to the targeted animal when participating in hunting activities. They will be issued a free hunting and All Terrain Vehicle (ATV) permit that will allow them to participate in statewide and special physically challenged hunts and have access to Wildlife Management Areas (WMAs) and special designated ATV trails on WMAs as long as they are accompanied by a helper who is a licensed hunter. Physically challenged permit holders are required to abide by all hunting rules and regulations and are subject to receiving violation citations.

Retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor-related equipment and associated items (food, fuel, clothing, shotgun shells, etc.) may experience a slight increase in receipts and/or income. The actual amount of this impact is not estimable at this time and will depend on the increased number of physically challenged visually impaired hunters and the demand for associated hunting goods and services.

No additional costs, workload or paperwork will result from implementing the proposed rule change.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment in the public and private sectors.

Wynnette Kees  
Undersecretary  
1005#050

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examinations will be given July 19-23, 2010, 9:30 a.m. at Louisiana Technical College, Lomax Hall, Ruston, LA. The deadline for sending in application and fee is June 4, 2010. No applications will be accepted after June 4, 2010.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to June 4, 2010. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

1005#009

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

#### 2009 Louisiana Annual Beach Report

The Louisiana Office of Public Health (OPH) is requesting written comments from the public on the agency's *2009 Louisiana Annual Beach Report*, to continue developing a monitoring program for marine beach environments in Louisiana through the U.S. Environmental Protection Agency's Beach Environmental Assessment and Coastal Health Act of 2000. The OPH will continue the monitoring and public notification program for Louisiana's coastal recreation waters with a grant provided through the Beaches Environmental Assessment and Coastal Health Act 2000 (BEACH Act) for the purpose of protecting public health at Louisiana's beaches. The BEACH Act requires that coastal states adopt water quality standards that EPA has chosen for coastal recreation waters, and to notify the public if water quality standards for pathogen indicators are exceeded. Under the Beach Act, Louisiana is required to identify coastal recreation waters in the state; identify bathing beaches adjacent to coastal recreation waters; evaluate and rank beaches; develop a sampling, monitoring and notification program; develop a method for issuing beach advisories and develop a method of public notification. The *2009 Louisiana Annual Beach Report* provides monitoring and notification results for 2009 and

describes how beaches considered for monitoring under the program during 2009 were assigned to a monitoring tier, which determines where, when and how monitoring and public notification will take place. The *2009 Louisiana Annual Beach Report* can be viewed at the following locations:

Office of Public Health, Center for Environmental  
Health Services, Room 146-14  
628 N. Fourth St., Baton Rouge, LA., 70821

The Louisiana Beach Monitoring Program website at:  
[www.ophbeachmonitoring.com](http://www.ophbeachmonitoring.com)

All interested persons are encouraged to submit written comments by July 30, 2010 to:

Jerome Freedman  
OPH Beach Monitoring Program  
P.O. Box 4489  
Baton Rouge, LA 70821-4489  
FAX (225) 342-7607  
E-mail: [Jerome.Freedman@LA.GOV](mailto:Jerome.Freedman@LA.GOV)

If you have any questions please contact Jerome Freedman at (225) 342-7541.

Alan Levine  
Secretary

1005#029

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

#### Public Hearing—Preventive Health and Health Services Block Grant

The Department of Health and Hospitals, Office of Public Health, will hold a public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered by the agency. The scheduled public hearing will take place on Monday, May 31, 2010, beginning at 9 am at 628 North Fourth Street (Bienville Building), 3rd Floor, Room 372, Baton Rouge, LA 70802. Copies of the grant may be obtained from Avis Richard-Griffin, Policy, Planning and Evaluation, Office of Public Health. Ms. Richard-Griffin can be contacted by email at [avis.richard-griffin@la.gov](mailto:avis.richard-griffin@la.gov) or by telephone at (225) 342-9355 for additional information.

Alan Levine  
Secretary

1005#039

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 19 claims in the amount of \$72,689.58 were received for payment during the period April 1, 2010 - April 30, 2010.

There were 19 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2904.830	9049.230	Terrebonne
2917.701	8954.168	Plaquemines
2919.500	9000.740	Jefferson
2919.865	8956.916	Jefferson
2924.448	8959.976	Jefferson
2924.840	9003.040	Jefferson
2924.860	8939.359	Plaquemines
2925.219	9017.230	Lafourche
2929.724	9001.184	Jefferson
2943.186	8949.613	Plaquemines
2943.462	8938.009	St. Bernard
2946.120	9235.698	Vermilion
2950.182	8941.352	St. Bernard
2950.273	8932.850	St. Bernard
2950.727	9319.900	Cameron

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle  
Secretary

1005#082

**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
Three "N" One Production	Caddo Pine Island	S	Gayle	001	43125
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	008	45602
Three "N" One Production	Caddo Pine Island	S	Gayle	003	50224
Three "N" One Production	Caddo Pine Island	S	Gayle	B-1	50739
Three "N" One Production	Caddo Pine Island	S	Gayle	B-2	50787

Operator	Field	District	Well Name	Well Number	Serial Number
Three "N" One Production	Caddo Pine Island	S	Gayle	B-3	51332
Three "N" One Production	Caddo Pine Island	S	Gayle	B-4	51333
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	003	59087
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	004	59179
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	002	59243
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	005	59244
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	009	59315
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	010	59371
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	011	59492
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	006	59638
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	007	59707
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	001	64433
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	012	64434
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	013	85171
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	014	93553
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	015	93747
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	016	93748
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	017	94044
Three "N" One Production	Caddo Pine Island	S	Alton Keoun	018	94045
Three "N" One Production	Caddo Pine Island	S	Gayle	004	112551
Three "N" One Production	Caddo Pine Island	S	Gayle	009	122509
Three "N" One Production	Caddo Pine Island	S	Noel Est	001	222732
Three "N" One Production	Caddo Pine Island	S	Noel Est	002	223330
Three "N" One Production	Caddo Pine Island	S	Noel Est	1-D	223428
Three "N" One Production	Caddo Pine Island	S	Oden	001	990180
Trans-Gulf Drilling Co	Colgrade	S	E Browning	005	170564
Esquire Oil And Gas Llc	Cowpen Creek, West	L	Owens-Illinois	001	146049
Esquire Oil And Gas Llc	Cowpen Creek, West	L	Owens-Illinois	002	147440
Esquire Oil And Gas Llc	Gordon	L	Owens-Illinois Dev Corp	001	199221
Esquire Oil And Gas Llc	Gordon	L	Owens-Illinois Dev Corp Swd	002	201254

Operator	Field	District	Well Name	Well Number	Serial Number
Esquire Oil And Gas Llc	Iowa	L	Fred Denison Etux	001	227504
Esquire Oil And Gas Llc	Iowa	L	Fv Ra Sua; Fred Denison Etux	002	230334
Craig Lorio & Son, L.L.C.	Judge Digby	L	Aus C Ra Sua; A F Harmon	001	220433
Craig Lorio & Son, L.L.C.	Maringouin, Southeast	L	C W Row Iii Et Al	001	197769
Craig Lorio & Son, L.L.C.	Maringouin, Southeast	L	C W Row Iii Et Al	005	213027
Craig Lorio & Son, L.L.C.	Moore-Sams	L	Aus C Ra Sua; Curet	001	176817
H. J. Bonner	Caddo Pine Island	S	Britt	001	163739
Halbouty-Reserve	Cankton, North	L	Milton Leblanc	001	33568(30)
Power Reserves, Inc.	Big Lake	L	Lebleu Ra Sum; J Manning A	004	150863(30)
Power Reserves, Inc.	Big Lake	L	d Ra Suk;C Manning A	004-D	151280(30)
Natomas North America, Inc.	Wildcat-So La New Orleans Dis	L	SI 7185	004	177692 (29)
Traver-Patterson Petroleum Inc	West Lake Pontchartrain Blk 45	L	SI 11982	002	207287 (29)
Clk Energy Partners, Llc	Bayou Choctaw	L	Wilbert Mineral Corp	001	42409
Clk Energy Partners, Llc	Bayou Choctaw	L	Wilbert Mineral Corp	003	44197
Clk Energy Partners, Llc	Bayou Choctaw	L	Wilbert Mineral Corp	009	48762
Clk Energy Partners, Llc	Bayou Choctaw	L	Wilbert Mineral Corp	010	49362
Clk Energy Partners	Bayou Choctaw	L	E B Schwing A	002	49693
Clk Energy Partners	Bayou Choctaw	L	Morley Cypress	004	55039
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	015	55309
Clk Energy Partners	Bayou Choctaw	L	Morley Cypress	005	58877
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	017	58972
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	020	64753
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	021	65308

Operator	Field	District	Well Name	Well Number	Serial Number
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	023	65954
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	026	67150
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	025	68791
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	028	70697
Clk Energy Partners	Bayou Choctaw	L	Morley Cypress B	001	71005
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	032	71711
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	031	72124
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	034	72876
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	033	72911
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	031D	73254
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	035	73308
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	033-D	73654
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	037	73874
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	035-D	74176
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	039	74590
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	040	75180
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	041	75923
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	041D	76616
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	043	76976
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	043-D	77412
Clk Energy Partners	Bayou Choctaw	L	Morley Cypress B	001D	77414
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	051	80139
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	052	80680
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	053	81272

Operator	Field	District	Well Name	Well Number	Serial Number
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	054	82407
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	055	82842
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	056	87384
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	057	88537
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	056-D	88629
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	057-D	89566
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	058	91128
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	052-D	91815
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	037-D	94894
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	060	99845
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	062	107652
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	064	113730
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	065	118446
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	068	120181
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	069	124047
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	070	124378
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	071	124581
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	072	124874
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	072D	125342
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	073	127791
Clk Energy Partners	Bayou Choctaw	L	U 18 Ra Sua; Wilberts	076	138213

Operator	Field	District	Well Name	Well Number	Serial Number
Clk Energy Partners	Bayou Choctaw	L	L 18 Ra Sua; Wilberts	078	140933
Clk Energy Partners	Bayou Choctaw	L	Morley Cypress	010	144059
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	091	183344
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	092	186239
Clk Energy Partners	Bayou Choctaw	L	Wilbert Mineral Corp	084	192364
Clk Energy Partners	Bayou Choctaw	L	Victory Financial Group	001	225721
Clk Energy Partners	Bayou Choctaw	L	Australian Mineral Interests	001	232568
Edgewater Oil Co. Inc.	Iberia	L	Weeks	001	121285

James H. Welsh  
Commissioner

1005#040

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Public Hearing—Docket No. Env 2010-03

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 pm Thursday, July 22, 2010, at the DeSoto Parish Police Jury Building, located at 101 Franklin Street, Police Jury Meeting Room, Mansfield, LA.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Louisiana Reclamation Company, L.L.C., 364 West Industrial Park Dr., Grand Cane, LA. The applicant requests approval from the Office of Conservation to construct and operate a commercial exploration and production waster (E&P Waste) treatment facility located in Township 13 North, Range 14 West Section 35 in DeSoto Parish.

The application is available for inspection by contacting Mr. Stephen Pennington, Office of Conservation, Environmental Division, Eight Floor of the LaSalle Office Building, 617 North 3rd Street, Baton Rouge, LA. Copies of the application will be available for review at the DeSoto Parish Police Jury or the Public Library in Mansfield, LA. Verbal information may be received by calling Mr. Pennington at (225) 342-7334.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not presented

at the hearing must be received no later than 4:30 pm, July 29, 2010, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation  
Environmental Division  
P.O. Box 94275  
Baton Rouge, Louisiana 70804  
Re: Docket No. ENV 2010-03  
Commercial Exploration and Production Treatment Facility  
DeSoto Parish

James H. Welsh  
Commissioner

1005#044

**POTPOURRI**

**Department of Revenue  
Policy Services Division**

**Natural Gas Severance Tax Rate**

The natural gas severance tax rate effective July 1, 2010, through June 30, 2011, has been set at 16.4 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the

Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2009, through March 31, 2010, to be 234.39 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 16.4 cents per MCF effective July 1, 2010, through June 30, 2011. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

The "gas base rate adjustment" and the "gas tax rate" are being published as required by R.S. 47:633(9)(d)(i). Questions concerning the natural gas severance tax rate should be directed to the Department of Revenue at 225-219-7462.

Cynthia Bridges  
Secretary

1005#031



**CUMULATIVE INDEX**  
(Volume 36, Number 5)

2010	
Pages	Issue
1-157.....	January
158-439.....	February
440-713.....	March
714-911.....	April
912-1153.....	May
EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri	

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**

January 2009—December 2009, 146

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**

Pesticide 2, 4-D, 914ER, 1036N  
 Seed certification standards and fees, 336N  
 ULV malathion/pyrethroid, 914ER, 1036N

**Agricultural Finance Authority**

Farm and agribusiness recovery and loan program,  
 442ER, 464R

**Commissioner, Office of the**

Sweet potato yield adjustment, 445ER  
 Family farm credit, 231R  
 Fees: amount, time of payment, 446ER

**Horticulture Commission**

Landscape architect registration exam, 150P, 425P  
 Retail floristry examination, 425P, 1143P

**Seed Commission**

Seed certification standards and fees, 336N

**CIVIL SERVICE**

**Civil Service Commission**

Food and drink limit, 855N  
 Performance adjustment, 343N  
 Temporary suspension of merit increase authority,  
 716ER, 855N

**Ethics, Board of**

Financial disclosure forms, 232R  
 Financial disclosures, 340N  
 Food and drink limit, 304R

**CULTURE, RECREATION AND TOURISM**

**Tourism, Office of**

Cultural districts, 469R  
 State parks, 558N  
 Welcome centers, 50R

**ECONOMIC DEVELOPMENT**

**Business Development, Office of**

CDC Certification Program, 79N, 750R  
 Entertainment tax industry credit programs—digital  
 media act, 425P  
 Motion picture investor tax credit program, 52R  
 Regional awards and matching grant awards programs,  
 51R  
 Retention and modernization act, 474R  
 Small and emerging business development program,  
 51R  
 Sound recording production and infrastructure tax credit  
 programs, 304R

**Business Development Services, Office of**

Retention and modernization act, 474R  
 Technology commercialization credit and jobs program,  
 307R

**Entertainment Industry Development, Office of**

Motion picture investor tax credit program, 52R  
 Sound recording production and infrastructure tax credit  
 programs, 304R

**Louisiana Economic Development Corporation**

Retention and modernization act, 474R

**Secretary, Office of**

Regional awards and matching grant awards programs,  
 51R  
 Retention and modernization act, 474R  
 Veteran initiative, 471R

**EDUCATION**

**Elementary and Secondary Education, Board of**

Bulletin 111—The Louisiana School, District, and State  
 Accountability System, 856N, 1037N  
 Bulletin 118—Statewide Assessment Standards and  
 Practices, 81N, 477R, 967R  
 Bulletin 119—Louisiana School Transportation  
 Specifications and Procedures, 567N  
 Bulletin 120—Adult Education Data Quality and  
 Procedures, 310R  
 Bulletin 126—Charter Schools  
 Renewal process and timeliness, 478R  
 Bulletin 130—Regulations for the Evaluation and  
 Assessment of School Personnel, 1045N  
 Bulletin 741—Louisiana Handbook for School  
 Administrators, 588N  
 Administration of medication, 480R  
 Agricultural education, 1071N  
 Career options, 1072N  
 Carnegie credit for middle school students, 59R,  
 344N  
 Compulsory attendance, 481R  
 Curriculum and instruction 590N  
 Foreign languages, 1073N  
 General career and technical education, 601N, 1074N  
 Health education, 603N  
 Individual graduation plan, 604N  
 Non-complex health procedures, 482R

## **EDUCATION (continued)**

Public comments, 59R  
Response to intervention, 346N  
Science education, 483R  
Technology education, 1075N  
Unsafe schools, 604N  
Bulletin 741 (Nonpublic)—Louisiana Handbook for School Administrators  
Assessment requirements for a state diploma, 587N  
Bulletin 746—Louisiana Standards for State Certification of School Personnel  
ACT/SAT scores in lieu of PRAXIS I scores, 484R  
Adult education instructor, 485R  
Certification appeal process, 486R  
PRAXIS I scores, 487R  
School nurse, 1076N  
Standards certificates for teachers in nonpublic/charter schools, 751R  
Teaching certificate, 1077N  
VTIE, CTTIE and CTTIE-1 certificates, 1079N  
World language certificate, 486R  
Bulletin 996—Standards for approval of Teacher and/or Educational Leader Preparation Programs  
Programmatic intervention and acronyms, 753R  
Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools  
Driver education and training program for children, 489R  
Bulletin 1566—Pupil Progression Policies and Procedures, 1081N  
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act  
Regulations for gifted/talented students, 1091N  
Regulations for students with disabilities, 605N  
Bulletin 1929—Louisiana Accounting and Uniform Government Handbook, 612N  
**Student Financial Assistance, Office of**  
Scholarship/Grants Program, 311R, 716ER, 1110N  
Intersession, 490R  
Rockefeller state wildlife scholarship, 915ER  
TOPS, 917ER  
**Tuition Trust Authority**  
START Saving Program  
Educational savings account, 313R, 717ER, 1111N  
Miscellaneous provisions, 1111N  
Split investment, 492R

## **ENVIRONMENTAL QUALITY**

**Environmental Protection Agency**  
Environmental Protection Agency  
EPA region 4 outer continental shelf (OCS) air quality permitting actions, 704P  
**Environmental Services, Office of**  
Permit Services Division  
Standard fees for solid waste transporters, 704P  
**Secretary, Office of the**  
Legal Affairs Division  
Control of emissions of nitrogen oxides, 59R  
DEQ notifications to state police, 348N  
Fee schedule, 432N  
Gasoline handling, 641N

HW tanks—secondary containment requirements and 90 day turnover of hazardous waste, 643N  
Miscellaneous amendments for NRC compatibility, 1112N  
Organic solvents and solvent degreasers, 649N  
Regulatory permits for cement and concrete facilities, 350N  
Reportable quantity for brine from solution mining, 655N  
Spill prevention and control, 858N  
Termination determination of CAAA §185 penalty fees—state implementation plan revision, 432P, 705P  
Training requirements for underground storage tank system operators, 313R  
Regulation of greenhouse gas emissions and title v applicability, 431P, 704P

## **EXECUTIVE ORDERS**

BJ 09-20 Bond Allocation—Jefferson Parish Finance Authority—Amend Executive Order BJ 09-18, 1EO  
BJ 09-21 Executive Branch—Expenditure Reduction, 1EO  
BJ 10-01 Rescinding Executive Orders BJ 08-48 and BJ 08-52, 2EO  
BJ 10-02 Support to Oklahoma, 169EO  
BJ 10-03 State of Emergency—Extension of Qualifying in the Parish of Desoto, 440EO  
BJ 10-04 Carry-Forward Bond Allocation 2009, 440EO  
BJ 10-05 Merit Increase Freeze, 714EO  
BJ 10-06 Expenditure Freeze, 714EO  
BJ 10-07 Flags at Half-Staff, 912EO  
BJ 10-08 Emergency Procedures for Conducting State Business, 912EO

## **GOVERNOR**

**Administration, Division of**  
Motion picture investor tax credit program, 52R  
Patient's compensation fund oversight board  
Oversight board administrative role clarifications, 355N  
The veteran initiative-procurement, 507R  
**Architectural Examiners, Board of**  
Admission renewal procedure, 353N  
**Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, Board of**  
General provisions, 493R,  
Public hearing—substantive changes, 150P  
**Boxing and Wrestling Commission**  
Boxing and Wrestling Standards, 108N, 354N, 756R, 992R  
**Coastal Protection and Restoration Authority**  
Public hearing—state fiscal year 2011 draft annual plan, 153P  
**Contractual Review, Office of**  
The veteran initiative-procurement, 507R  
**Crime Victims Reparation Board**  
Eligibility for reparations, 919ER  
**Financial Institutions, Office of**  
Expired license reinstatement procedure, 316R  
Non-depository records retention, 656N

## GOVERNOR (continued)

### Information Technology, Office of

IT bulletins published, 705P  
Office of electronic services abolition, 863N

### Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 355N, 992R

### Louisiana River Pilot Review and Oversight, Board of

General provisions, 99N, 984R

### Motor Vehicle Commission

General provisions, 864N

### Public Defender Board

Capital Defense Guidelines, 111N, 993R

### Shorthand Reporters, Board of Examiners

Fees, 1114N

### State Military Department

National guard death and disability benefits, 316R

### State Purchasing, Office of

The veteran initiative-procurement, 507R

### Used Motor Vehicle Commission

Commission name change, 657N  
Recreational products regulation, 657N  
Transfer of licensing, 657N

## HEALTH AND HOSPITALS

### Addictive Disorders, Office of

Need and application reviews, 521R

### Aging and Adult Services, Office of

Adult protective services, 759R  
All inclusive care for the elderly, reimbursement rate reduction, 170ER  
All inclusive care for the elderly, repeal of reimbursement rate reduction, 171ER  
Facility need review—relocation of nursing facility beds, 364N, 1009R  
Home and community based services waivers  
Adult day health care, reimbursement rate reduction, 177ER  
Adult day health care, repeal of reimbursement rate reduction, 178ER  
Nursing facilities admissions, 365N, 737ER, 1010R  
Personal care services  
Long-term, reimbursement rate reduction, 215ER, 673N  
Long-term, repeal of reimbursement rate reduction, 215ER

### Citizens with Developmental Disabilities, Office of

Home and community-based services waivers  
Children's choice family training services, 324R  
Children's choice, reimbursement rate reduction, 178ER, 927ER  
New opportunities waiver, reimbursement rate reduction, 662N, 719ER  
New opportunities waiver, resource allocation model, 65R  
Supports waiver, reimbursement rate reduction, 179ER, 928ER

### Dentistry, Board of

General provisions, 63R  
Mobile dentistry; relicensure of dentists, hygienists, 1115N

### Health Services Financing, Bureau of

Adult dentures programs, replacement and reline limits, 170ER, 920ER  
Adult residential care providers—minimum licensing standards—dementia training requirements, 362N, 1008R  
All inclusive care for the elderly, reimbursement rate reduction, 170ER, 171ER  
Ambulatory surgical centers, reimbursement rate reduction, 172ER, 172ER, 921ER  
Clinic services  
End state renal disease facilities, reimbursement rate reduction, 175ER, 925ER  
CommunityCARE program  
Immunization, 173ER, 447ER  
Pay-for-performance initiative, 173ER, 447ER  
Payment levels, 173ER, 447ER  
Demonstration waivers  
Family planning waiver, reimbursement rate reduction, 175ER, 926ER  
Disproportionate share hospital payments  
Low income and needy care collaboration, 4ER, 921ER  
Mental health emergency room extensions, 717ER, 1119N  
Non-rural community hospitals, 4ER, 923ER  
Pre-admission certification and length of stay assignment, 65R  
Radiology utilization management, 512R  
Early and periodic screening, diagnosis and treatment  
KIDMED services, claims filing, 128N, 759R  
Dental program, reimbursement rate reduction, 174ER, 924ER  
Personal care services, 872N  
End stage renal disease facilities, 925ER  
Facility need review  
Adult day health care providers, 322R  
Relocation of nursing facility beds, 364N, 1009R  
Family planning waiver, reimbursement rate reduction, 926ER  
Federally qualified health centers  
Service limits and reimbursement rate reduction, 176ER, 718ER  
Home and community based services waivers  
Adult day health care, reimbursement rate reduction, 177ER  
Adult day health care, repeal of reimbursement rate reduction, 178ER  
Children's choice family training services, 324R  
Children's choice, reimbursement rate reduction, 178ER, 927ER  
Supports waiver, reimbursement rate reduction, 179ER, 928ER

**HEALTH AND HOSPITALS (continued)**

New opportunities waiver reimbursement rate reduction, 662N, 719ER

New opportunities waiver resource allocation model, 65R

Residential Options Waiver, 720ER

Home health program

- Durable medical equipment, reimbursement reduction, 180ER, 181ER, 663N, 734ER
- Nursing and home health aide services, reimbursement rate reduction, 182ER, 183ER, 928ER
- Provider accreditation, 512R
- Provider accreditation requirements, repeal, 735ER

Hospital licensing standards

- Crisis receiving centers, 513R

Inpatient hospital services

- Non-rural, non-state hospitals
  - Children’s specialty hospitals, 929ER
  - Major teaching hospitals, 930ER
  - Reimbursement rate reduction, 931ER
- Pre-admission certification, 197ER, 939ER
- Supplemental payments, 935ER

Long term care

- Intermediate care facilities for persons with development disabilities, 737ER, 881N

Non-rural, non-state hospitals

- Low income and needy care collaboration, 7ER, 184ER
- Major teaching hospitals, 8ER
- Outlier payment methodology, 519R
- Pre-admission certificate, 66R
- Reimbursement, 448ER, 736ER
- Reimbursement rate reduction, 186ER, 190ER, 877N
- Supplemental payments, 194ER

Laboratory and radiology services

- Radiology utilization management, 1120N
- Reimbursement rate reduction, 198ER, 665N, 939ER

Medicaid eligibility

- Express lane eligibility, 9ER, 882N, 941ER
- Medicare savings programs, 11ER, 942ER

Medical transportation program

- Emergency ambulance services, reimbursement rate reduction, 199ER, 666N
- Non-emergency ambulance services, reimbursement rate reduction, 200ER, 201ER, 944ER
- Non-emergency medical transportation, reimbursement rate reduction, 944ER

Mental health rehabilitation program

- Reimbursement rate reduction, 202ER, 451ER, 668N, 945ER
- Service Limitations, 451ER, 668N

Multi-systemic therapy

- Prior authorization and reimbursement rate reduction, 202ER, 946ER
- Reimbursement rate reduction, 453ER, 670N

Nursing facilities

- Admissions, 365N, 737ER, 1010R
- Emergency preparedness—electronic reporting requirements, 325R

- Minimum licensing standards—dementia training requirements, 368N, 1013R
- Per diem rate reduction, 325R, 520R
- Reimbursement methodology, rate determination, 203ER, 1121N
- Reimbursement rate reduction, 12ER, 204ER, 884N, 947ER, 948ER

Outpatient hospital services

- Non-rural, non-state hospitals
  - Children’s specialty hospitals, reimbursement rate reduction, 205ER, 209ER, 949ER, 950ER
  - Low income and needy care collaboration, 13ER, 740ER
  - Major teaching hospitals, 16ER, 954ER
  - Radiology utilization management, 67R, 1123N
  - Reimbursement rate reduction, 454ER, 671N, 950ER
  - Supplemental payments, 213ER
- Personal care services
  - Long-term, reimbursement rate reduction, 215ER, 455ER, 673N
  - Long-term, repeal of reimbursement rate reduction, 215ER

Pharmacy benefits management program

- Maximum allowable costs, 222ER, 456ER
- Medication administration, H1N1 immunizations, 22ER, 955ER, 1124N
- Methods of payment, 16ER, 457ER
- Restoration of the dispensing fee, 18ER, 887N
- Restoration of the dispensing fee repeal, 743ER

Pregnant women extended services

- Dental services, reimbursement rate reduction, 216ER, 955ER

Professional services program

- Anesthesia services
  - reimbursement methodology, 956ER
  - reimbursement rate reduction, 217ER, 459ER, 674N, 956ER
- Family planning services, reimbursement rate reduction, 219ER, 958ER
- Inpatient physician services, 68R
- Physician services, reimbursement rate reduction, 219ER, 460ER, 676N, 959ER

Prosthetics and orthotics

- Provider accreditation, 520R
- Reimbursement rate reduction, 221ER, 461ER, 521R, 678N, 960ER

Rural health clinics, reimbursement rate reduction, 223ER, 747ER

Services for special populations

- Pediatric day health care program, 885N

Targeted case management

- Nurse family partnership program, reimbursement rate reduction, 223ER, 1125N

**Medical Examiners, Board of**

- Administrative provisions, licensure and certification, practice, 660N

**Nursing, Board of**

- Alternative to disciplinary proceedings, 129N, 358N
- Faculty, 130N, 360N
- Fees for fingerprint imprint, 131N, 359N

## **HEALTH AND HOSPITALS (continued)**

Registered nurses

Peripherally inserted central catheter, 64R

### **Pharmacy, Board of**

Digital imaging of prescriptions, 755R

Pharmacy interns, 755R

Prescription monitoring program, 755R

Prescription transfers, 756R

### **Psychologists, Board of Examiners of**

Authority, 124N, 1005R

Continuing education, 124N, 1005R

Credentials, 124N, 1005R

Disciplinary action, 124N, 1005R

Licensure, 124N, 1005R

Supervised practice, 124N, 1005R

Supervision of assistants psychologists, 659N

Supervision of unlicensed assistants, 124N

### **Public Health, Office of**

2009 Louisiana annual beach report, 1143P

Advanced notice of rulemaking, 153P

Disease reporting instructions; perinatal HIV exposure reporting, 370N, 1014R

Preparation and handling of seafood for market, 373N, 1016R

Preventive health services

Water supplies—fluoridation, 72R

Preventive health and health services block grant—public hearing, 1143P

Request for comments—fish consumption advisory protocol, 154P

### **Veterinary Medicine, Board of**

Continuing veterinary medicine education, 319R

Temporary registration during a declared emergency, 919ER

### **Wholesale Drug Distributors, Board of**

Enforcement action, 321R

Fees, 158P

General provisions, 321R

Required information, 361N

Wholesale drug or device distributors, 322R

## **INSURANCE**

### **Commissioner, Office of the**

Regulation 99—Certificates of Insurance, 374N, 706P

## **JUSTICE**

### **Attorney General, Office of the**

Certificates of public advantage, 376N

## **NATURAL RESOURCES**

### **Conservation, Office of**

Exploration and production site groundwater evaluation and remediation—statewide order no. 29-B, 388N

Groundwater evaluation, 132N

Ground water management, 326R

Manifest system—statewide order no. 29-B, 390N, 1017R

Orphaned oilfield sites, 154P, 433P, 706P, 1144P

Pit closure techniques and onsite disposal of E & P waste, 679N

Public hearing—docket no. env. 2010-03, 1146P

### **Secretary, Office of**

Fishermen's gear compensation fund

Loran coordinates, 154P, 433P, 706P, 1144P

## **PUBLIC SAFETY AND CORRECTIONS**

### **Corrections Services**

Crime victim services bureau, 525R

Death penalty, 525R

Louisiana risk review panels, 528R

Medical reimbursement plan, 1126N

Offender incentive pay and other wage compensation, 531R

Public information program and media access, 681N

Regulation of air traffic, 391N, 1017R

Restoration of good time, 26ER, 533R

Sex offender assessment panels, 23ER, 534R

### **Gaming Control Board**

Accounting regulations, 392N, 1018R

Licensees, permittees, loans and restrictions, 684N

### **Juvenile Justice, Office of**

Educational and work assignment experience incentive program, 1127N

### **Private Security Examiners, Board of**

Licensing of journeyman, 134N, 764R

Training, 72R

### **State Police, Office of**

Explosives code, 550R

Motor vehicle inspection, 1133N

Motorcycle safety training program, 536R

Preparedness and response act, 545R

State uniform construction code, 1135N

Tow truck license plate, 462ER

Towing, recovery and storage, 546R, 690N

### **State Fire Marshall, Office of the**

Code enforcement and building safety

Fire protection, 687N

Industrialized buildings, 394N, 1020R

### **State Uniform Construction Code Council**

Certification requirements-grandfathering, 690N

Uniform construction code, 326R

## **REVENUE**

### **Policy Services Division**

Ad valorem taxation, 765R

Corporation income and franchise tax filing extensions, 552R

Electronic filing requirements for oil or gas severance tax, 691N

Extension of time to file; waiver of interest, 329R

Income tax credits for wind or solar energy systems, 692N

Individual income tax filing extensions, 72R

Limited local sales tax exemption for cancer and related chemotherapy prescription drugs, 1028R

March meeting of Act 442 collaborative working group, 706P

National center for construction education and research apprentice tax credits, 1137N

Natural gas severance tax rate, 1147P

Sales and use tax exemptions, 404N

## REVENUE (continued)

### Secretary, Office of the

February meeting of Act 442 collaborative working group, 433P

### Tax Commission

Public hearing—substantive changes to proposed rule valuation of oil, gas, and other wells, 434P

## SOCIAL SERVICES

### Community Services, Office of

Foster care, 73R

Guardianship subsidy program, 552R

Residential licensing, 329R, 784R, 1029R,

Adult residential care, disqualification, 831R

Child residential care, 784R

Disqualification, 27ER

Emergency shelter, required records, 227ER

Notice of revocation action, 696N

State central registry, 34ER, 135N, 838R, 1031R

Social services block grant (SSBG)

2010-2011 intended use report, 707P

Temporary assistance to needy families (TANF)

Caseload reduction report, 434P

### Family Support, Office of

Adult residential care, disqualification, 831R

Child Care Assistance Program

Automated time and attendance

Discontinuation of job search, 40ER, 698N, 747ER

Military child care providers, 225ER, 555R

State central registry, 137N

Child care daycare services

Child care quality rating system, 332R

Child care licensing

Revocation notice, 701N

State central registry, 41ER, 141N, 847R

Supplemental nutritional assistance program (SNAP),

Iraqi, Afghani immigrant—qualified alien, 961ER

Support enforcement, 74R

### Secretary, Office of

State central registry

Criminal background and risk assessment evaluation, 45ER, 142N, 850R

## TRANSPORTATION AND DEVELOPMENT

### Outdoor Advertising

Outdoor advertising regulations, 892N

### Professional Engineering and Land Surveying Board

Re-examinations, experience, and licensure status, 405N, 1033R

## WILDLIFE AND FISHERIES

### Secretary, Office of the

Shrimp packaging regulations, 1034R

### Wildlife and Fisheries Commission

2010 spring inshore shrimp season, 963ER

Bucks-only deer hunting, 48ER

Carp, 145N

Crab traps, 77R

Elmer's island wildlife refuge, 463ER, 708P

Fishing closure, 963ER

portion of eastern Louisiana, 964ER

General and wildlife management area hunting, 406N

Hunting season, 49ER

King mackerel, 47ER

Large coastal shark, 229ER, 748ER

Nuisance wildlife control operator program, 74R

Physically challenged hunters permit, 1138N

Reef fish, 47ER, 48ER, 897N

Resident game hunting season, 421N

Shrimp, 49ER, 143N, 230ER

Shrimp season closure, portion of zone 1, including

Breton and Chandleur Sounds, 964ER

Special bait dealer's permit, 77R

Special shrimp season

Closure, remainder of Zone 1 and all of Zone 2, 965ER

Opening, portion of Breton and Chandleur Sounds, 965ER

Zone 2 and portion of Zone 1, 965ER

Territorial sea shrimp

Closure and portion of Zone 3 opening, 966ER

Re-opening, 966ER

Wildlife rehabilitation program, 852R