

**I. EXECUTIVE ORDERS**  
 BJ 08-09 Bond Allocation to Louisiana Housing Finance Agency—Amend Executive Order No. KBB 07-34  
     Concerning Carry-Forward ..... 367  
 BJ 08-10 Authorization for Chair of the State Mineral Board to Sign Certain Documents on Governor's Behalf ..... 367  
 BJ 08-11 Additional 2007 Carry-Forward Bond Allocation Louisiana Housing Finance Agency ..... 368  
 BJ 08-12 Department of Health and Hospitals—Assistance and Support to Metropolitan Human Services District ..... 369

**II. EMERGENCY RULES**  
**Economic Development**  
     Boxing and Wrestling Commission—Boxing and Wrestling Standards (LAC 46:XI.Chapters 1, 3 and 7)..... 371  
**Environmental Quality**  
     Office of the Secretary—Expedited Penalty Agreement (LAC 33:I.801 and 807, and VII.115 and 315)  
         (M004E3)..... 377  
**Governor**  
     Office of Financial Institutions—Louisiana Trust Company (LAC 10:I.1501 and 1503)..... 384  
**Health and Hospitals**  
     Board of Veterinary Medicine—Veterinary Practice (LAC 46:LXXXV.714)..... 385  
     Emergency Response Network Board—Emergency Response Network Board Provisions  
         (LAC 48:I.18101, 18301-18305, and 18501-18507) ..... 386  
     Office for Citizens with Developmental Disabilities—Home and Community Based Services Waivers  
         Termination of Services for Displaced Recipients (LAC 50:XXI.301)..... 388  
     Office of Aging and Adult Services—Home and Community Based Services Waivers—Adult Day Health  
         Care—Medical Assistance Program (LAC 50:XXI.2101, 2103, 2107, 2109, 2313, 2317  
         and Chapter 27)..... 389  
     Home and Community Based Services Waivers—Elderly and Disabled Adult Waiver (LAC 50:XXI.  
         Chapters 81 and 85)..... 391  
     Home and Community Based Services Waivers—Termination of Services for Displaced Recipients  
         (LAC 50:XXI.301) ..... 388  
     Nursing Facilities—Standards for Payment Level of Care Determination (LAC 50:II.10154)..... 393  
     Office of the Secretary, Bureau of Health Services Financing—Disproportionate Share Hospital Payment  
         Methodologies—Distinct Part Psychiatric Unit Expansions (LAC 50:V.315) ..... 394  
     Medicaid Eligibility—Disability Medicaid Program (LAC 50:III.2305) ..... 395  
     Mental Health Rehabilitation Program—Moratorium on Mental Health Rehabilitation Providers  
         (LAC 50:XV.701)..... 396  
     Nursing Facility Minimum Licensing Standards—Emergency Preparedness (LAC 48:I.9729)..... 396  
     School Based Health Centers (LAC 50:XV.Chapter 91) ..... 400  
**Social Services**  
     Office of Family Support—CCAP-Child Care Assistance Program (LAC 67:III.5107)..... 402  
     Office of Rehabilitation Services—Vocational Rehabilitation Policy Manual (LAC 67:VII.115)..... 403  
**Revenue**  
     Policy Services Division—Wind or Solar Energy Systems Tax Credits (LAC: 61:I.1907) ..... 404  
**Wildlife and Fisheries**  
     Wildlife and Fisheries Commission—Snapper—Individual Fishing Quota and Minimum Size Limit ..... 406

**III. RULES**  
**Agriculture and Forestry**  
     Office of Agro Consumer Services—Weights and Measures (LAC 7:XXXV.101 and 137) ..... 408  
**Education**  
     Board of Elementary and Secondary Education—Board of Elementary and Secondary Education  
         (LAC 28:I.Chapters 1-13)..... 409  
     Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.703,  
         4302, 4310, and 4313) ..... 427

This public document was published at a total cost of \$2,730.00. Five hundred copies of this public document were published in this monthly printing at a cost of \$2,730. The total cost of all printings of this document including reprints is \$2,730.00. 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. 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.

Bulletin 111—The Louisiana School, District, and State Accountability System—School Performance (LAC 28:LXXXIII.Chapters 3, 5, and 24).....	430
Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.305 and 1801) .....	431
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.347, 401, 403, 410, and 421) .....	432
<b>Environmental Quality</b>	
Office of the Secretary—Ambient Air Standards for Particulate Matter (LAC 33:III.701, 703, and 711) (AQ288).....	433
<b>Governor</b>	
Board of Examiners of Shorthand Reporters—Fees (LAC 46:XXI.901) .....	434
Capital Area Ground Water Conservation Commission—Pumpage Fees (LAC 56:V.1107) .....	435
Recreational and Used Motor Vehicle Commission—Recreational Products Trade Show (LAC 46:V.Chapters 30 and 36).....	435
<b>Health and Hospitals</b>	
Board of Medical Examiners—Medical Professionals; Practice (LAC 46:XLV.4231-4239) .....	438
Board of Nursing—Continuing Education—Nursing Practice (LAC 46:XLVII.3335).....	440
Office of the Secretary, Bureau of Health Services Financing—Hospice—Payment Rates (LAC 50:XV.4305) .....	441
Pregnant Women Extended Services—Dental Services (LAC 50:XV.16105) .....	441
Office of Public Health—Genetic Diseases—Newborn Heel Stick Screening (LAC 48:V.6303) .....	442
Prevention and Control of Yellow Fever (LAC 51:II.905).....	444
Office of Public Health, Center for Environmental Health Services—Marine and Freshwater Animal Food Products (LAC 51:IX.127, 145, 319, 321, and XXIII.1109) .....	444
<b>Revenue</b>	
Policy Services Division—Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises (LAC 61:I.1305) .....	446
<b>Treasury</b>	
Board of Trustees of the Louisiana State Employees' Retirement System—Elections (LAC 58:I.301, 303, 501, and 503) .....	446

#### IV. NOTICES OF INTENT

<b>Education</b>	
Board of Elementary and Secondary Education—Bulletin 126—Charter Schools (LAC 28:CXXXIX.Chapters 1-35) .....	448
Bulletin 128—Entrepreneurship Content Standards Curriculum Framework (LAC 28:CXLIII.Chapters 1-5).....	469
Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28:CXV.2377) .....	477
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Algebra I (LAC 28:CXXXI.648) .....	478
Bulletin 746—Louisiana Standards for State Certification of School Personnel—The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements) (LAC 28:CXXXI.233) .....	479
Bulletin 904—Guidelines for Submission of a Charter School Proposal (LAC 28:XXIII) .....	480
Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.305,307, 312, 501, 511, 701, 1801, and 2501).....	481
Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework Students Teaching and Reaching (STAR) II (LAC 28:CXXV.1501, 1701, and 1901-1915) .....	483
Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs (LAC 28:IV, 301, 507, 703 and 705).....	487
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Clean Air Interstate Rule (LAC 33:III.506)(AQ292) .....	490
Incorporation by Reference—2007 (LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517) (MM007ft) .....	493
<b>Governor</b>	
Division of Administration, Racing Commission—Timing of Entering Next Claiming Race (LAC 35:XI.9905) .....	496
<b>Health and Hospitals</b>	
Board of Practical Nurse Examiners—Approved Fees (LAC 46:XLVII.1715) .....	496
Board of Veterinary Medicine—Student/Shelters and Faculty Veterinarian (LAC 46:LXXXV.714).....	497
Licensed Professional Counselors Board of Examiners—General Provisions and Code of Conduct (LAC 46:LX.Chapters 1-21) .....	499
Office of Aging and Adult Services—Home and Community Based Services Waivers—Elderly and Disabled Adult Waiver (LAC 50:XXI.Chapters 81 and 85) .....	517
Home and Community Based Services Waivers—Elderly and Disabled Adults Waiver—Adult Day Health Care Services (LAC 50:XXI.8301).....	519

Bureau of Health Services Financing—Early and Periodic Screening, Diagnosis and Treatment	
Dental Program—Reimbursement Rate Increase (LAC 50:XV.6905) .....	521
Federally Qualified Health Centers—Reimbursement Methodology Payment for Adjunct Services (LAC 50:XI.10703) .....	522
Nursing Facilities—Reimbursement Methodology—Fair Rental Value, Property Tax and Property Insurance Incentive Payments (LAC 50:VII.1312) .....	523
Nursing Facilities—Standards for Payment Level of Care Determination (LAC 50:II.10154) .....	525
Professional Services Program—Adult Immunizations (LAC 50:IX.Chapters 83-87) .....	527
Professional Services Program—Physicians Services—Payment for Adjunct Services (LAC 50:IX.15121) .....	528
Rural Health Clinics—Reimbursement Methodology—Payment for Adjunct Services (LAC 50:XI.16703) .....	529
Targeted Case Management—Nurse Family Partnership Program (LAC 50:XV.11101-11103) .....	530
<b>Public Safety and Corrections</b>	
Office of State Police—Explosive Code (LAC 55:I.1511 and 1531) .....	531
<b>Natural Resources</b>	
Office of Conservation—Statewide Order No. 29-B—Commercial Exploration and Production Waste Facilities (LAC 43:XIX.501, 511, 547, 549, and 565) .....	532
Statewide Order No. 29-B—Waste Type 04 Disposal Requirements (LAC 43:XIX.503, 505, 547, and 549) ....	535
<b>Revenue</b>	
Policy Services Division—Income Tax Credits for Wind or Solar Energy Systems (LAC 61:I.1907) .....	537
<b>Social Services</b>	
Office of Rehabilitation Services—Individual's Participation in the Cost of Vocational Rehabilitation Services (LAC 67:VII.115) .....	540
<b>State</b>	
Secretary of State—Address Confidentiality Program (LAC 4:XIX.Chapter 1) .....	542
<b>Treasury</b>	
State Employees' Retirement System—Instances Where Spousal Consent Is Not Required (LAC 58:I.2903) .....	545
Teachers' Retirement System—Monthly Contribution Reports and Submission Requirements (LAC 58:III.101) .....	545
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Deer Management Assistance Program (LAC 76:V.111) .....	547
Landowner Antlerless Deer Tag Program (LAC 76:V.119) .....	549
Reef Fish Harvest Regulations (LAC 76:VII.335) .....	550
<b>V. POTPOURRI</b>	
<b>Economic Development</b>	
Office of Business Development, Office of Entertainment Industry Development— Entertainment Industry Tax Credit Programs—Motion Picture Production and Infrastructure Tax Credit Programs (LAC 61:I.1601-1607) .....	553
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Annual Emissions Inventory Data Submittals (LAC 33:III.919 and 5107) .....	559
<b>Governor</b>	
Board of Tax Appeals—Board of Tax Appeals Office Move .....	560
<b>Health and Hospitals</b>	
Office of the Secretary, Bureau of Health Services Financing—Pharmacy Benefits Management Program Antihemophilia Drugs Reimbursements .....	560
<b>Natural Resources</b>	
Office of Conservation—Orphaned Oilfield Sites .....	560
Office of the Secretary—Fishermen's Gear Compensation Fund .....	560
<b>Social Services</b>	
Office of Community Services—2008-2009 Social Services Block Grant Intended Use Report .....	561
<b>VI. INDEX</b> .....	563

# Executive Orders

## EXECUTIVE ORDER BJ 08-09

Bond Allocation to Louisiana Housing Finance Agency—Amend Executive Order No. KBB 07-34 Concerning Carry-Forward

WHEREAS, Executive Order No. KBB 2007-34, issued on December 21, 2007, granted a carry forward allocation of 2007 private activity bond volume cap to the Louisiana Housing Finance Agency for the Single Family Mortgage Revenue Bond Program in the amount of \$82,132,022;

WHEREAS, the amount of allocation made in Executive Order No. KBB 2007-34 caused the total allocations made in 2007 to exceed the 2007 Volume Cap Ceiling of \$364,460,280 by \$20,520,000; and

WHEREAS, it is necessary to amend Executive Order No. KBB 2007-34 in order to correct the amount of the carry-forward allocation and reduce it by \$20,520,000 in order to ensure that the 2007 Volume Cap Ceiling is not exceeded;

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

SECTION 1: Section 1 of Executive Order No. KBB 2007-34 is hereby amended to provide as follows:

Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carryforward filed by the designated issuer, excess private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carryforward project, and in the following amount:

Name of Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Single Family Mortgage	\$61,612,022	Finance Agency Revenue Bond Program

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by the 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 13th day of February, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0803#083

## EXECUTIVE ORDER BJ 08-10

Authorization for Chair of the State Mineral Board to Sign Certain Documents on Governor's Behalf

WHEREAS, the State Mineral Board (hereafter "Board"), created by Act No. 93 of the 1936 Regular Session and continued through R.S. 30:121, et seq., is authorized through R.S. 30:124 to lease for development and production of minerals, oil, and gas the lands belonging to the state of Louisiana and the lands to which title is held in the public, including road beds, water bottoms, and lands adjudicated to the state at tax sale;

WHEREAS, pursuant to R.S. 30:129, the Board has full supervision of all mineral leases granted by the state of Louisiana, and the general authority to take any action for the protection of the interests of the state, institute actions to annul a lease upon any legal ground, and enter into agreements and amend leases;

WHEREAS, R.S. 30:128 expressly prohibits and provides penalties for the transfer or assignment of any lease of minerals or mineral rights owned by the state of Louisiana without the Board's approval;

WHEREAS, prior to the creation of the Board, certain state leases and other agreements pertaining to the development and production of mineral, oil, and gas were executed on behalf of the state of Louisiana by the Governor and, therefore, those leases and agreements contain language which require the signature of the Governor prior to any transfer of interests therein; and

WHEREAS, the chair of the Board has been authorized to sign such leases and agreements on behalf of the governor pursuant to Executive Orders issued by former governors;

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 to those documents presented to the Board, pursuant to R.S. 30:128, for approval of the right to transfer or assign a lease of minerals or mineral rights owned by the state of Louisiana which require the signature of the Governor prior to any transfer of interests therein, and which the Board has approved the transfer or assignment, the chair of the Board is authorized and directed to sign the document on behalf of the Governor.

SECTION 2: This Order is effective upon signature and shall 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 13th day of February, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR

Jay Dardenne  
Secretary of State  
0803#084

#### EXECUTIVE ORDER BJ 08-11

Additional 2007 Carry-Forward Bond Allocation  
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2006 (hereafter "the 2006 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, Executive Order No. KBB 2007-29, issued on November 6, 2007, allocated forty-two million dollars (\$42,000,000) from the 2007 Ceiling to the East Baton Rouge Mortgage Finance Authority for Single Family Mortgage Revenue Bonds; based on notification provided by East Baton Rouge Mortgage Finance Authority to the Bond Commission that twenty-two million dollars (\$22,000,000) was returned unused to the 2007 Ceiling, the carry-forward

bond allocation granted to Louisiana Housing Finance Agency in Executive Order KBB 2007-34 was reduced in Executive Order BJ 2008-09; however, East Baton Rouge Mortgage Finance Authority has since corrected its prior notification to the state that the entire allocation of forty-two million dollars (\$42,000,000) was returned unused to the 2007 Ceiling;

WHEREAS, twenty million dollars (\$20,000,000) has thus now become available to be used as additional carry-forward allocation from the 2007 volume cap;

WHEREAS, Executive Order No. BJ 2008-09, issued on February 13, 2008, allocated a reduced amount of sixty one million six hundred twelve thousand and twenty two dollars (\$61,612,022) as a carry-forward to the Louisiana Housing Finance Agency from the 2007 Ceiling to be used in connection with the Single Family Mortgage Revenue Bonds; and

WHEREAS, the Governor desires to allocate the additional twenty million dollars (\$20,000,000) now available in the unused portion of the 2007 Ceiling to the Louisiana Housing Finance Agency as a carry-forward to be used in connection with the Single Family Mortgage Revenue Bonds;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess and/or unused private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program	\$20,000,000

SECTION 2: The twenty million dollars (20,000,000) carry-forward allocated herein is in addition to the sixty one million six hundred twelve thousand and twenty two dollars (\$61,612,022) carry-forward allocated in Executive Order No. BJ 2008- 09, such that the total carry-forward for 2007 allocated to the Louisiana Housing Finance Agency in connection with the Single Family Mortgage Revenue Bonds is eighty one million six hundred twelve thousand and twenty two dollars (\$81,612,022).

SECTION 3: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 4: This Order is effective upon signature and shall remain 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of February, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0803#085

### EXECUTIVE ORDER BJ 08-12

Department of Health and Hospitals—Assistance and  
Support to Metropolitan Human Services District

WHEREAS, the Metropolitan Human Services District was created in 2003 as a special district to operate and manage community-based mental health, developmental disabilities, and addictive disorder programs and services for the parishes of Orleans, St. Bernard, and Plaquemines (R.S. 28:861 et seq.);

WHEREAS, it is the policy of the state of Louisiana, as established by the Legislature and Governor, to transform the system of care described herein to a community-based model of local involvement and control; it is also the state's policy to ensure the effective operation of the system of care to ensure that the system develops best practices and remains organized;

WHEREAS, on August 29, 2005, Hurricane Katrina struck Louisiana, resulting in severe flooding, damage, devastation, and disruption of life in southeastern Louisiana, including the three parishes served by the Metropolitan Human Services District;

WHEREAS, the devastation and disruption caused by Hurricane Katrina have significantly increased the incidence of mental illness and substance abuse among the residents of the parishes served by the Metropolitan Human Services District, causing a corresponding increase in their need for services, despite the net loss of population in those parishes;

WHEREAS, the Metropolitan Human Services District has faced a significant challenge with the hurricane's impact on physical infrastructure of treatment facilities and the loss or displacement of many of the District's treatment professionals and other staff, and has faced challenges with establishing its readiness to accommodate the service needs of the community;

WHEREAS, the operations of the Metropolitan Human Services District have been further hampered by staff and board turnover, and instability with regard to its continuing operations potentially resulting in a loss of continuity, planning, supervision, and accountability in the operations of the District;

WHEREAS, the circumstances described above constitute a severe and unprecedented crisis in the provision of mental health, developmental services and addictive disorder services to the residents of the Metropolitan Human Services District; this crisis is exemplified by the provision of treatment which may be delayed, inadequate, or simply not provided at all by an overwhelmed and unprepared

system, potentially resulting in significant increases in depression, suicides, strokes, stress-related deaths, violence (domestic and otherwise), psychiatric emergencies, and the "dumping" of mental patients at jails and hospital emergency rooms;

WHEREAS, before the Metropolitan Human Services District was created, and before it began performing its assigned functions for the parishes of Orleans, St. Bernard, and Plaquemines, those functions had been performed by the Department of Health and Hospitals (R.S. 28:865, 28:866, 36:254(I));

WHEREAS, the funds appropriated by the Legislature for the operations of the Metropolitan Human Services District are included in the budget of the Department of Health and Hospitals and are transferred from the Department to the District in accordance with the agreement between them, and if the Legislature fails to appropriate such funds, the Department will become responsible for performing the functions of the District for the parishes of Orleans, St. Bernard, and Plaquemines (R.S. 36:254(I));

WHEREAS, the effective operation of the Metropolitan Human Services District is of critical importance to the health and safety of the people of the state of Louisiana, and represents a fundamental component of the state's system of response for people in a mental health crisis; the failure of such a system could have a dangerous impact on law enforcement, as well as families facing mental health crisis;

WHEREAS, the secretary of the Department of Health and Hospitals is responsible for policy setting, development, and implementation of a statewide system for the delivery of mental health, developmental disabilities, and addictive disorder services, but has little enforcement authority under the law to deal with the action or inaction of the Metropolitan Human Services District;

WHEREAS, this statewide system is overseen by an interagency council; the secretary or his designee is the chair of the council, and the executive director of the Metropolitan Human Services District is one of its members (R.S. 28:382.2(A));

WHEREAS, the Department of Health and Hospitals may have resources, personnel and expertise at its disposal which are greatly needed by the Metropolitan Human Services District and which could be of great assistance and support to the District in its current crisis, thus helping it to improve the level and quality of services it provides to its residents; and

WHEREAS, The secretary of the Department of Health and Hospitals has asked for broad authority to provide needed assistance, assessment and support to the Metropolitan Human Services District.

NOW THEREFORE I, Bobby Jindal, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: I hereby authorize the secretary of the Department of Health and Hospitals to utilize the resources, personnel and expertise of the Department and any contracted assistance deemed appropriate by the secretary to conduct an assessment of the current operational performance of the Metropolitan Human Services District.

This assessment shall include a review of policies and procedures related to operational and financial controls, purchasing and contracting, clinical continuum of care, governance and quality of service. The assessment shall result in a detailed report of the findings and any recommendations for sustained improvement.

SECTION 2: The secretary of the Department of Health and Hospitals is authorized to take immediate steps to provide operational assistance and oversight to the Metropolitan Human Services District with all the assistance and support (including, but not limited to, staffing, planning, property, materials, and technical support) appropriate to expedite the effective operation of the Metropolitan Human Services District with the goal of achieving an absolute state of readiness for its intended functions.

SECTION 3: The secretary of the Department of Health and Hospitals is authorized to negotiate and execute a cooperative endeavor agreement with the Metropolitan Human Services District to carry out the mandate of this executive order and to facilitate the coordination of the

efforts of the Department and the District for the greatest possible benefit to the residents of the District.

SECTION 4: This Order is effective upon signature and shall remain 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 25th day of February, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0803#086

# Emergency Rules

## **DECLARATION OF EMERGENCY Department of Economic Development Boxing and Wrestling Commission**

Boxing and Wrestling Standards  
(LAC 46:XI.Chapters 1, 3 and 7)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and adopts the following Rules. The Louisiana State Boxing and Wrestling Commission, by this Emergency Rule, will adopt the rules of the United States Amateur Boxing, Inc., and/or the Golden Gloves of America pursuant to amateur boxing contestants and events; to clarify the definitions of "amateur" and "professional" and the corresponding rules thereto in order to ensure that a proper forum for amateur fighters is encouraged; that amateur shows are properly advertised as such and that amateur contestants are equally matched.

Testing for Hepatitis B and Hepatitis C will be added the current HIV drug testing requirements. This Emergency Rule will also introduce a new chapter, Chapter 7. Mixed Technique Events, which is necessary to promote the safety of mixed technique contestants, other participants and spectators in that it will require participants in all mixed technique events to be under the jurisdiction of The Louisiana State Boxing and Wrestling Commission. This new chapter will introduce rules specific to Amateur Mixed Technique Events and Professional Mixed Technique Events and outlines the commission's demands pertaining to contestants, amateur or professional; rules citing the responsibility of promoters of amateur shows, in particular, and professional mixed technique events; bout durations; judges and referees; and the safety and ring requirements of both.

This Emergency Rule is effective February 13, 2008, and will remain in effect for a period of 120 days, unless renewed by the commissioner or until adoption of the final Rule, whichever occurs first.

### **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 certificates are to be presented at the time of "weigh in."

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 LR 34:

#### **Chapter 3. Professional Boxing**

##### **§303. Amateur Boxing Associations**

A. The commission will recognize an amateur boxing contest or exhibition only if it is registered and sanctioned by United States Amateur Boxing, Inc., and/or the Golden Gloves of America as an amateur boxing contest or exhibition.

B. An amateur boxing contest or exhibition is governed by the rules adopted for amateur boxing contests or exhibitions by United States Amateur Boxing, Inc. The commission hereby adopts by reference those rules as they exist in the form most recently adopted by United States Amateur Boxing, Inc. A copy of those rules may be purchased for a price of \$15, from United States Amateur Boxing, Inc., One Olympic Plaza, Colorado Springs, Colorado 80909. If those rules do not cover a particular situation in an amateur boxing contest or exhibition, the provisions of this chapter concerning unarmed combat and professional boxing contests or exhibitions apply.

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 34:

#### **Chapter 7. Mixed Technique Events**

##### **§701. Application of Professional and Amateur Boxing Rules**

The following conditions specifically described in the professional boxing rules also apply to amateur and professional mixed technique sports and events as put forth in the foregoing §§101 through 113 except where the intention would be to modify rules which are specific to Mixed Technique Events.

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 34:

##### **§703. Mixed Technique Events (MTE)**

A. All Mixed Technique Events shall be conducted under the authority and supervision of the commission.

B. There are hereby established three types of Mixed Technique Event (MTE):

1. MTE amateur events;
2. MTE exhibition events; and
3. MTE professional event.

C. MTE amateur events are defined as those MTE events using amateur fighters and being sponsored by a recognized Amateur Mixed Technique Association, duly recognized by the commission;

1. Pursuant to R.S. 4:67 there shall be no taxes charged to a MTE amateur event sponsored by an AMTA approved by the commission;

D. MTE Exhibition Events are defined as those MTE events using amateur fighters conducted by a promoter licensed by the commission;



1. MTE Exhibition Events shall be conducted under the Mixed Technique Event Exhibition Rules set forth below.

E. MTE Professional Events are defined as those MTE events using professional fighters conducted by a promoter licensed by the commission.

1. MTE Professional Events shall be conducted under the Mixed Technique Event Professional Rules set forth below.

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 34:

### **§705. Mixed Technique Ring Rules**

A. Mixed Technique Events contests and exhibitions may be held in a ring or in a fenced area.

B. A ring used for a contest or exhibition Mixed Technique Event must meet the following requirements.

1. The ring must be no smaller than 20 feet square and no larger than 32 feet square within the ropes.

2. The ring floor must extend at least 18 inches beyond the ropes. The ring floor must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.

3. The ring platform must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Ring posts must be made of metal, not more than 3 inches in diameter, extending from the floor of the building to a minimum height of 58 inches above the ring floor, and must be properly padded in a manner approved by the commission. Ring posts must be at least 18 inches away from the ring ropes.

5. There must be five ring ropes, not less than 1 inch in diameter and wrapped in soft material. The lowest ring rope must be 12 inches above the ring floor.

6. There must not be any obstruction or object, including, without limitation, a triangular border, on any part of the ring floor.

C. A fenced area used in a contest or exhibition Mixed Technique Event must meet the following requirements.

1. The fenced area must be circular or have at least eight equal sides and must be no smaller than 20 feet wide and no larger than 32 feet wide.

2. The floor of the fenced area must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the fenced area. Material that tends to gather in lumps or ridges must not be used.

3. The platform of the fenced area must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Fence posts must be made of metal, not more than 6 inches in diameter, extending from the floor of the building

to between 5 and 7 feet above the floor of the fenced area, and must be properly padded in a manner approved by the commission.

5. The fencing used to enclose the fenced area must be made of a material that will prevent an unarmed combatant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, including, without limitation, chain link fence coated with vinyl.

6. Any metal portion of the fenced area must be covered and padded in a manner approved by the commission and must not be abrasive to the unarmed combatants.

7. The fenced area must have two entrances.

8. There must not be any obstruction on any part of the fence surrounding the area in which the unarmed combatants are to be competing.

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 34:

### **§709. Safety Zone**

A. At each event there shall be an area around the ring or fenced in area, extending eight feet as measured from said ring or fenced in area, which shall be partitioned from the public seating and said area shall be referred to as the "safety zone."

1. No one may enter the safety zone unless authorized by the commission;

2. All seating inside of the safety zone shall be authorized by the attending commissioner.

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 34:

### **§711. Duration of Rounds**

A. Except with the approval of the commission or its chairman:

1. a non-championship contest or exhibition of Mixed Technique Events must not exceed three rounds in duration;

2. a championship Mixed Technique Event must be five rounds in duration;

3. a period of unarmed combat in any Mixed Technique Event must be 5 minutes in duration. A period of rest following a period of unarmed combat in a Mixed Technique Event must be 1 minute in duration.

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 34:

### **§713. Weight Classes of MTE Contestants; Weight Loss**

A. Except with the approval of the commission or its Commissioner, the classes for unarmed combatants competing in Mixed Technique Events and the weights for each class are shown in the following schedule.

Flyweight	up to 125 lbs.
Bantamweight	over 125 to 135 lbs.
Featherweight	over 135 to 145 lbs.

Lightweight	over 145 to 155 lbs.
Welterweight	over 155 to 170 lbs.
Middleweight	over 170 to 185 lbs.
Light Heavyweight	over 185 to 205 lbs.
Heavyweight	over 205 to 265 lbs.
Super Heavyweight	all over 265 lbs.

B. After the weigh-in of an unarmed combatant competing in a Mixed Technique Events:

1. weight loss in excess of 2 pounds is not permitted for an unarmed combatant who weighed in at 145 pounds or less;
2. weight loss in excess of 3 pounds is not permitted for an unarmed combatant who weighed in at over 145 pounds;
3. the weight loss described in Paragraph 2 must not occur later than 2 hours after the initial weigh-in.

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 34:

**§715. Proper Attire for Unarmed Combatants**

A. An unarmed combatant competing in a Mixed Technique Event:

1. must wear shorts approved by the commission or the commission's representative;
2. may not wear shoes or any padding on his feet during the contest.

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 34:

**§717. Method of Judging**

A. Each judge of a Mixed Technique Event that is being judged shall score the contest or exhibition and determine the winner through the use of the following system'

1. The better unarmed combatant of a round receives 10 points and his opponent proportionately less.
2. If the round is even, each unarmed combatant receives 10 points.
3. No fraction of points may be given.
4. Points for each round must be awarded immediately after the end of the period of unarmed combat in the round.

B. After the end of the contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk.

C. The majority opinion is conclusive and, if there is no majority, the decision is a draw.

D. When the commission's representative has checked the scores, he shall inform the announcer of the decision. The announcer shall inform the audience of the decision over the speaker system.

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 34:

**§719. Fouls**

A. The following acts constitute fouls in a Mixed Technique Event:

1. butting with the head;
2. eye gouging of any kind;
3. biting;
4. hair pulling;
5. fishhooking;
6. groin attacks of any kind;
7. putting a finger into any orifice or into any cut or laceration on an opponent;
8. small joint manipulation;
9. striking to the spine or the back of the head;
10. striking downward using the point of the elbow;
11. throat strikes of any kind, including, without limitation, grabbing the trachea;
12. clawing, pinching or twisting the flesh;
13. grabbing the clavicle;
14. kicking the head of a grounded opponent;
15. kneeling the head of a grounded opponent;
16. stomping a grounded opponent;
17. kicking to the kidney with the heel;
18. spiking an opponent to the canvas on his head or neck;
19. throwing an opponent out of the ring or fenced area;
20. holding the shorts or gloves of an opponent;
21. spitting at an opponent;
22. engaging in any unsportsmanlike conduct that causes an injury to an opponent;
23. holding the ropes or the fence;
24. using abusive language in the ring or fenced area;
25. attacking an opponent on or during the break;
26. attacking an opponent who is under the care of the referee;
27. attacking an opponent after the bell has sounded the end of the period of unarmed combat;
28. flagrantly disregarding the instructions of the referee;
29. timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury;
30. interference by the corner;
31. throwing in the towel during competition;

**B. Fouls: Deduction of Points**

1. If an unarmed combatant fouls his opponent during a Mixed Technique Event, the referee may penalize him by deducting points from his score, whether or not the foul was intentional. The referee shall determine the number of points to be deducted in each instance and shall base his

determination on the severity of the foul and its effect upon the opponent.

2. When the referee determines that it is necessary to deduct a point or points because of a foul, he shall warn the offender of the penalty to be assessed.

3. The referee shall, as soon as is practical after the foul, notify the judges and both unarmed combatants of the number of points, if any, to be deducted from the score of the offender.

4. Any point or points to be deducted for any foul must be deducted in the round in which the foul occurred and may not be deducted from the score of any subsequent round.

#### C. Accidental Fouls

1. If a Mixed Technique Event is stopped because of an accidental foul, the referee shall determine whether the unarmed combatant who has been fouled can continue or not. If the unarmed combatant's chance of winning has not been seriously jeopardized as a result of the foul and if the foul did not involve a concussive impact to the head of the unarmed combatant who has been fouled, the referee may order the contest or exhibition continued after a recuperative interval of not more than 5 minutes. Immediately after separating the unarmed combatants, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that a Mixed Technique Event may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition must be declared a no contest if the foul occurs during:

a. the first two rounds of a contest or exhibition that is scheduled for three rounds or less; or

b. the first three rounds of a contest or exhibition that is scheduled for more than three rounds.

3. If an accidental foul renders an unarmed combatant unable to continue the contest or exhibition after:

a. the completed second round of a contest or exhibition that is scheduled for three rounds or less; or

b. the completed third round of a contest or exhibition that is scheduled for more than three rounds, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

4. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

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 34:

## §721. Results of Contests

A. A Mixed Technique Event may end under the following results:

1. submission by:

a. physical tap out;

b. verbal tap out.

2. technical knockout by the referee stopping the contest;

3. decision via the scorecards, including:

a. unanimous decision;

b. split decision;

c. majority decision;

d. draw, including:

i. unanimous draw;

ii. majority draw;

iii. split draw;

4. technical decision;

5. technical draw;

6. disqualification;

7. forfeit;

8. no contest.

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 34:

## §723. Referees and Judges

A. No referee may officiate a Mixed Technique Event unless he has been duly qualified by the commission. The commission may approve referees based upon their qualifications or may require the attendance of a mandatory seminar.

B. No judge may officiate a Mixed Technique Event unless he has been duly qualified by the commission. The commission may approve judges based upon their qualifications or may require the attendance of a mandatory seminar.

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 34:

## §725. Promoters

A. The promoter must provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside.

B. The promoter must provide at least one licensed physician to conduct pre-fight physicals and provide a private area for the physician to perform pre-fight examinations.

C. The promoter shall ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason,

including, but not limited to transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

D. Only the fighter; his trainer and chief seconds shall enter the fenced off area around the ring or cage. Any other member of the contestants entourage who enters the fenced off area for any reason shall be ejected from the event.

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 34:

#### **§727. Equipment for Contestants**

A. Required equipment:

1. mouth guard;
2. open finger gloves (minimum 4 oz.) with an open palm with no insert and the majority of the weight of the glove to be around the knuckles;
3. groin protection (male only);
4. breast protection (female).

B. Disallowed equipment:

1. no Vaseline on the body;
2. no shoes;
3. no shirts for male contestants;
4. no metal zippers on shorts.

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 34:

#### **§729. Corner Requirements**

A. For each bout, the promoter shall provide a clean water bucket and a clean plastic water bottle in each corner.

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 34:

#### **§731. Specifications: Bandaging of MT Contestant's Hands**

A. In all weight classes, the bandages on each contestant's hand shall be restricted to soft gauze cloth not more than 13 yards in length and two inches in width, held in place by not more than 10 feet of surgeon's tape, one inch in width, for each hand.

B. Surgeon's adhesive tape shall be placed directly on each hand for protection near the wrist. The tape may cross the back of the hand twice and extend to cover and protect the knuckles when the hand is clenched to make a fist.

C. The bandages shall be evenly distributed across the hand.

D. Bandages and tape shall be placed on the contestant's hands in the dressing room in the presence of the inspector and in the presence of the manager or chief second of his or her opponent.

E. Under no circumstances are gloves to be placed on the hands of a contestant until the approval of the inspector is received.

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 34:

#### **§733. Mouth Pieces**

A. All contestants are required to wear a mouthpiece during competition. The mouthpiece shall be subject to examination and approval by the attending physician.

B. The round cannot begin without the mouthpiece in place.

C. If the mouthpiece is involuntarily dislodged during competition, the referee shall call time, clean the mouthpiece and reinsert the mouthpiece at the first opportune moment, without interfering with the immediate action.

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 34:

#### **§735. Amateur Mixed Technique Associations:**

A. An Amateur Mixed Techniques Association (AMTA) must provide proof to the commission that it is either a non-profit organization certified by the State of Louisiana or that it is approved as a non-profit organization under the provisions of the Internal Revenue Code.

B. An AMTA shall file with the commission rules for conducting the organization's affairs and the conduct of its members. The rules must include provisions to:

1. establish conditions for membership;
2. provide guidelines for training its members in preparation for a contest;
3. establish a minimum training period before a contest;
4. indicate which class(es) of combative sports the AMTA will conduct;

5. require that all referees and judges participating in events conducted by the AMTA are approved by the commission; and

6. establish a set of rules for determining the amateur status of each participant in any event which the AMTA sponsors; including a method for recording the names of all mixed technique fighters in the State of Louisiana, both professional and amateur;

7. may include provisions to:

a. provide for payment of actual expenses, up to a maximum of "one hundred and no/100" for the contestants who participate in an event; and

b. allow members of other AMTAs to participate as a visiting member in an event conducted by it without the other AMTA participating in the conducted event, so long as it ascertains that the visiting member is qualified under the rules to be a contestant in the event.

C. An AMTA may not conduct or participate in any event unless it has received the commission's written approval of rules required in subsection (b) above.

D. An AMTA may not conduct or participate in an event unless it has applied for and received approval for status as an AMTA by the commission.

E. An AMTA shall provide insurance and pay all deductibles for contestants, to cover medical, surgical and hospital care with a minimum limit of \$20,000 for injuries sustained while participating in a contest and \$50,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least ten calendar days before an event the AMTA shall provide to the Department for each event to be conducted, a certificate of insurance showing proper coverage. The AMTA shall supply to those

participating in the event the proper information for filing a medical claim.

F. An AMTA shall ensure that all contestants participating in contests it conducts are amateurs.

G. An AMTA may not allow any person who has not been a member of the AMTA for at least thirty days to participate as a contestant in any event in which the AMTA participates.

H. An AMTA conducting an event shall:

1. bear all financial responsibility for the event;
2. provide the commission with written notice of all proposed event dates, ticket prices, and participants of the main event, at least 21 days before the proposed event date and obtain written approval from the commission to promote the event prior to advertising or selling tickets;
3. provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside;
4. provide at least one licensed physician to conduct pre-fight physicals. Provide a private area for the physician to perform pre-fight examinations;
5. insure that only referees and judges approved by the commission participate in the event;
6. assure that no alcoholic beverages or illegal drugs are in the dressing room;
7. ensure the safety of the contestants, officials, and spectators;
  - a. a sufficient number of security personnel shall be retained to maintain order;
8. ensure that the rules set forth herein below regarding equipment and gloves that apply to a particular type of event are followed;
9. ensure that each contest is conducted as provided by the AMTAs rules approved by the commission;
10. ensure that each event has the appropriate equipment as described by the AMTA's rules approved by the department;
11. ensure that all advertising concerning an event to be conducted indicates that it is an amateur event, and includes the name of the AMTA that will conduct the event; and
12. ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason, including, but not limited to transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

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 34:

### **§737. Mixed Technique Event Exhibition Rules**

A. MTE Exhibitions shall be conducted using §707 above with the following modifications.

1. Conduct of Promotion. If you are interested in staging a Mixed Technique Event Exhibition contest you must notify the commission in writing and to be considered for approval you must:

- a. submit a written list of the name, address, age, height, weight, trainer and training gym of each contestant said list to be submitted no later than two weeks prior to the

event and any changes to said list to be within a reasonable time based upon the approval of the Chairman;

b. submit a writing from each contestant that he or she has never engaged in a professional Mixed Technique Event or professional mixed martial arts contest;

c. submit writing from the contestant's trainer that the contestant is skilled enough and healthy to compete and that the contestant has been training for the sport longer than 30 days;

d. submit the name of the referee(s) you intend to use; however the commission may mandate that you use a referee approved by the commission;

e. agree to abide by any other conditions which the commissioner may impose on this new activity as events are reviewed and amendments may be made;

f. agree in writing that you will observe all Mixed Technique Event Rules;

g. submit in writing a statement to the effect that the fighter is not being paid any gratuity for participating in the event, and memorialize each and every actual expense, to a maximum of \$100 that is being reimbursed to the fighter;

h. if you are not a promoter who also owns and operates his own gym you must utilize a matchmaker approved by the commission who shall arrange and approve all fights on the card; and

i. ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be a large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements.

B. Equipment: Exhibition contestants shall use a minimum 7 ounce open fingered gloves

C. Acts Constituting Fouls in Addition to those Listed under §707.G

1. Illegal techniques while standing:

- a. elbowing; and
- b. kneeing to the head;

2. Illegal techniques while on the ground:

a. any downward striking to an opponent's head while the back of that opponent's head is pinned to the mat or when the opponent has both shoulders pinned to the mat.

3. Additional Items

a. If punch or kick (excluding kicks to the legs or leg sweeps) causes a knockdown:

- i. the action will not continue;
- ii. the standing fighter will not continue to attack;
- iii. the referee will begin a 10 count and the standing fighter must go to a neutral corner during the count; and

iv. If the referee determines that the downed fighter can continue, then the fight shall resume with the fighters in a standing position;

b. In the event that the referee believes that the fighter is in trouble he is authorized to give an eight count; this shall be a standing eight while the parties are standing; or simply an eight count if they are on the ground with the position of the fighters to be maintained when the actions continues.

c. In the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that

fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters.

d. The referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment; which will require stoppages much sooner than those in a Professional Mixed Technique Event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters.

e. In the event that the commission member in attendance feels that the promoter has violated any of the rules of this section concerning Mixed Technique Exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall at the close of the fight issue a summons to that Promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

D. At each MTE Exhibition event there shall also Professional MTE bouts equaling either 25 percent of the number of bouts on the card or a minimum of two Professional bouts whichever is greater; however this rule will be inapplicable to venues with a occupancy capacity of 500 people or less, as set by the fire marshal, with the further understanding that this rule shall always apply to any outdoor event or other venue where it is impossible for the firemarshal to set the occupancy capacity.

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 34:

Buddy Embanato, Jr.  
Chairman

0802#001

## **DECLARATION OF EMERGENCY**

### **Department of Environmental Quality Office of the Secretary**

#### **Expedited Penalty Agreement (LAC 33:I.801 and 807, and VII.115 and 315)(M004E3)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal of and revision to Emergency Rule MM004E2, which was effective on November 15, 2007, and published in the Louisiana Register on November 20, 2007. This revision adds additional solid waste and underground storage tank violations to LAC 33:I.807, clarifies various existing violations, and adjusts existing penalty amounts to be consistent for similar violations. The structure of the expedited penalty table is changed to divide it into separate tables by media and type.

The expedited penalty agreement Rule, LAC 33:I.Chapter 8, became final on December 20, 2006. This Emergency Rule supplements that Rule by adding certain violations to, and clarifying existing violations in, the types of violations that may qualify for expedited penalties and adjusting existing penalty amounts to be consistent across media for similar violations. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes and violations of the UST delivery prohibition rule required by the federal Underground Storage Tank Compliance Act of 2005. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on March 15, 2008, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning MM004E3 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule 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), and 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 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**

**Chapter 8. Expedited Penalty Agreement**

**§801. Definitions**

\* \* \*

*LAR050000*—an LPDES multi-sector storm water general permit.

*LAR100000*—an LPDES storm water general permit associated with construction activity greater than five acres.

*LPDES General Permit*—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, or LAG750000 series.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

**§807. Types of Violations and Expedited Penalty**

**Amounts**

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
ALL MEDIA			
Violation	Citation	Amount	Frequency
* * *			
[See Prior Text]			

Expedited Penalties			
AIR QUALITY			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	\$500	Per occurrence

Expedited Penalties			
AIR QUALITY			
Violation	Citation	Amount	Frequency
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence

Expedited Penalties			
AIR QUALITY—Stage II Vapor Recovery			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Violation	Citation	Amount	Frequency
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$300	Per occurrence
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$200	Per compliance inspection

Expedited Penalties			
HAZARDOUS WASTE—Used Oil			
Violation	Citation	Amount	Frequency
***			
[See Prior Text]			

Expedited Penalties			
SOLID WASTE			
Violation	Citation	Amount	Frequency
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence

Expedited Penalties			
SOLID WASTE			
Violation	Citation	Amount	Frequency
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Failure to notify the department after becoming subject to the regulations as a generator, transporter, processor, or disposer of solid waste.	LAC 33:VII.401.A	\$300	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence

Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$300	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G; 10519.O and P	\$200	Per occurrence



Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to collect appropriate waste tire fee for each tire sold.	LAC 33:VII.10519.C; 10521.B; 10535.B	\$200	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D; 10521.C	\$200	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E; 10521.D	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F; 10521.E	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H; 10521.H	\$200	Per occurrence
Storing waste tires for more than 120 days without complying with the exceptions for the extended storage time.	LAC 33:VII.10519.I	\$200	Per occurrence
Failure to use an authorized transporter for removal of tires from a place of business.	LAC 33:VII.10519.K	\$500	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure of motor vehicle dealer to notify administrative authority within 30 days of commencing business operations.	LAC 33:VII.10521.A	\$300	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$1,000	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence

Expedited Penalties			
SOLID WASTE—Waste Tires			
Violation	Citation	Amount	Frequency
Failure to affix to driver's door and passenger's door the authorization certificate number, 3 inches in height.	LAC 33:VII.10523.F	\$100	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Acceptance by a processor of more than five unmanifested tires per day per customer.	LAC 33:VII.10525.A.2	\$300	Per occurrence
Failure of a processor to maintain a log for all unmanifested loads.	LAC 33:VII.10525.A.2	\$200	Per occurrence
Failure to meet any of the facility standards listed in LAC 33:VII.10525.D.	LAC 33:VII.10525.D	\$300	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
A collector or collection center exceeding the storage limit of waste tires or waste tire material.	LAC 33:VII.10527.C; 10531.C	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations

Expedited Penalties			
WATER QUALITY			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with monitoring requirements of LPDES Storm Water General Permits LAR050000 and LAR100000.	LAC 33:IX.2701.A	\$300	Per occurrence
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:I.801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:I.801.	LAC 33:IX.2701.A	\$500	Per occurrence

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$200	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Allowing a regulated substance to be placed into a new UST system that has not been registered.	LAC 33:XI.301.C.4	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overfill prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to ensure that the individual exercising supervisory control over installation-critical junctures is certified in accordance with LAC 33:XI.Chapter 13.	LAC 33:XI.303.B.4.b.ii	\$1,000	Per occurrence
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$1,300 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection
Failure to report any spill and overfill.	LAC 33:XI.501.C	\$500	Per inspection
Failure to investigate and/or clean up any spill and overfill.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to ensure that the individual exercising supervisory control over repair-critical junctures is certified.	LAC 33:XI.507.A.2	\$1,000	Per occurrence
Failure to maintain required information and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509.B and C	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701; 703.A.1.b and c	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1, not including Subparagraphs a-c	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor tanks for releases as specified.	LAC 33:XI.703.B.1	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor underground piping for releases as specified.	LAC 33:XI.703.B.2	\$750 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
UNDERGROUND STORAGE TANKS			
Violation	Citation	Amount	Frequency
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.2 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection
Failure to use a certified worker for tank closure.	LAC 33:XI.905.A.2	\$1,000	Per inspection
Failure to assess the site at closure or change-in-service where contamination is most likely to be present.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to submit the assessment in duplicate within 60 days following permanent closure or change-in-service.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to begin corrective action of contaminated soils, contaminated groundwater, or free product discovered through methods in LAC 33:XI.907.A, in accordance with LAC 33:XI.715.	LAC 33:XI.907.B	\$1,500	Per occurrence

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 1. General Provisions and Definitions**

**§115. Definitions**

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

\* \* \*

*Transport*—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

*Transporter*—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, non-processing transfer station, or permitted processing facility and/or solid waste landfill.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:

**Chapter 3. Scope and Mandatory Provisions of the Program**

**§315. Mandatory Provisions**

A. - N.2. ...

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:

Harold Leggett, Ph.D.  
Secretary

0803#048

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Office of Financial Institutions**

Louisiana Trust Company (LAC 10:I.1501 and 1503)

The Office of Financial Institutions, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following Emergency Rules of the Louisiana Trust Company Statutes as authorized by R.S. 6:121; 6:576; 6:592; and 6:613. This Rule, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective March 9, 2008, and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Office of Financial Institutions has found an immediate need, since no such rules exist at this time, to provide rules for the establishment of fees and assessments to ensure that the costs of regulation of trust company activities in Louisiana are adequately recaptured; prevent any adverse fiscal impact on the state; and provide the commissioner adequate resources to properly regulate Louisiana trust companies. Further, it will benefit the consumer by allowing for the establishment of entities that engage in activities that could provide additional legal solutions to meet estate planning and asset management goals.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**Part I. Financial Institutions**

**Chapter 15. Louisiana Trust Company**

**§1501. General Provisions**

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered financial institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may submit a request that a reduced fee be charged for the simultaneous filing of similar multiple applications other than de novo applications. This request will not be approved for applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:

**§1503. Fees and Assessments**

A. Pursuant to the authority granted under R.S. 6:121; 6:576; 6:592; and 6:613, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the Louisiana Trust Company Law, R.S. 6:571 et seq.

Description	Fee
A. Application for a de novo public trust company, or the merger or consolidation of public trust companies.	\$10,000
B. The conversion from a national or federally-chartered trust company to a state-chartered public trust company.	\$1,500
C. Application for a Louisiana trust company to establish a trust office or trust representative office.	Standard Form: \$1,000 Short Form: \$250
D. Application to form a de novo private trust company.	\$5,000
E. Application for a conversion or merger of a state-chartered trust company into a federally chartered depository institution or a federal trust company.	\$1,500
F. Semi-annual assessment for each public trust company domiciled in Louisiana to be assessed no later than June 30 and December 31.	\$2,500
G. Semi-annual assessment for each private trust company domiciled in Louisiana to be assessed no later than June 30 and December 31.	\$1,000
H. Examination fee for each trust company domiciled in Louisiana. Fee per examiner.	\$50 per hour
I. Review of a restatement and/or amendment to the Articles of Incorporation of a state-chartered Louisiana trust company.	\$250
J. Application by a state-chartered trust company to establish or acquire a subsidiary.	\$500
K. Annual certification for each private trust company.	\$500
L. The conversion from a private trust company to a public trust company.	\$5,000
M. Examination fee for each out-of-state branch, administrative office, trust production office, or representative office of any trust company domiciled in Louisiana.	Any fees assessed pursuant to this Rule plus any amounts assessed by the host state regulator for participating in the examination of the Louisiana entity.
N. Examination fee for each branch, administrative office, or representative office of any out-of-state trust company operating in Louisiana in the absence of a sharing agreement between OFI and the host state that establishes fees for examinations and other administrative cost. This fee shall be billed to the primary regulator of the out-of-state entity being examined, and due upon receipt of the OFI invoice.	\$50/hour per examiner plus the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:

John Ducrest, CPA  
Commissioner

0803#027

## DECLARATION OF EMERGENCY

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

Veterinary Practice  
(LAC 46:LXXXV.714)

The Department of Health and Hospitals, Board of Veterinary Medicine (the "board") has adopted this Emergency Rule, effective February 14, 2008, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Veterinary Practice Act, R.S. 37:1569, as well as R.S. 29:769(E). The Emergency Rule is to remain in effect for a period of 120 days or until adoption of the final Rule, whichever occurs first.

In keeping with its function set forth by the State Legislature in R.S. 29:769(E) and R.S. 37:1518A(9) of the LA Veterinary Practice Act, the board adopts this Emergency Rule establishing the requirements for a qualified student at LSU-SVM to perform limited duties in a support capacity, at approved shelters on shelter animals only, under the direct supervision of faculty veterinarians licensed with the board. It is the primary purpose of this emergency action to identify the limitations of the student's duties and restrict the student from entering the realm of veterinary medical practice for which a license is required by law after the successful completion of competency requirements. It also holds the supervising faculty veterinarians licensed with the board accountable for the students under their charge.

The board wishes to support the education effort of future licensed veterinarians, but must properly discharge its legal mandate of insuring the health, welfare, and protection of the public and animals receiving veterinary medical care. Without limitations established by rule regarding the student program, the potential for eminent peril to public health and safety will exist for the public and animals, more specifically animals owned by members of the public. In addition, this emergency rule is necessary in light of recent student grant proposals for shelter medicine to LSU-SVM by the Humane Society of the United States.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 7. Veterinary Practice

#### §714. Student/Shelters and Faculty Veterinarian

A. A person who is a regular student in an accredited veterinary school who is performing duties or actions assigned by his instructors as part of his curriculum under the direct supervision of a faculty veterinarian who is licensed by the board; however, the student's role shall be limited to assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery in the shelters pre-approved by the board on shelter animals only. For example, observation of procedures and services by the student and the performance of menial support tasks to assist the licensed faculty veterinarian are legally permissible. However, the licensed faculty veterinarian must be the primary veterinarian, or surgeon of record, in all situations. To allow the student to perform beyond the support capacity as defined in this rule would, in effect, permit the student to enter into the realm of veterinary

practice without first having to meet the requirements necessary to have a license as established by the Louisiana Veterinary Practice Act and the Louisiana Board of Veterinary Medicine Rules.

B. Direct supervision is defined as "continuous, visual, and on-site supervision" which shall only be performed by a faculty veterinarian licensed by, and accountable to, the Louisiana Board of Veterinary Medicine as per its regulatory authority. Accordingly, the licensed faculty veterinarian and the program shall comply with all requirements established by the Veterinary Practice Act and the board's Rules regarding the practice of veterinary medicine including, but not limited to, such practice standards as a proper surgical facility, record keeping, aftercare, prescriptions, drug/device maintenance, etc. The faculty veterinarian as a licensed veterinarian shall be ultimately responsible, and accountable to the board, for the duties, actions, or work performed by the student; however, at no time shall the student's role extend beyond assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery in the shelters pre-approved by the board on shelter animals only.

C. The tasks assigned to a student is at the discretion of the supervising faculty veterinarian licensed by the board who shall be ultimately responsible and held accountable by the board for the duties, actions, or work performed by the student, however, at no time shall the student's role extend beyond assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery. In addition, the tasks assigned to the student shall encompass the care, treatment, and/or surgery of one shelter animal at a time at a shelter pre-approved by the board. Again, the licensed faculty veterinarian must be the primary veterinarian, or surgeon of record, in each individual situation.

D. Prior to commencement of a student's participation in a program, the supervising faculty veterinarian licensed by the board must first notify the board of such on Board approved forms.

E. A student shall not be permitted to perform supervision of any nature, as defined in §§700 and 702, of the tasks or procedures performed by other personnel of the shelter at issue.

F. The duties, actions or work performed by a student shall not be considered a component of, nor applied to, the requirements regarding the preceptorship program established by the board. The period of time necessary to satisfactorily complete a preceptorship program shall not run concurrently with the period of time a student performs or works as such.

G. A student extern who is working during a school vacation for a licensed veterinarian shall be under continuous, visual, and on site supervision of a veterinarian licensed by the board. The supervising veterinarian shall be ultimately responsible and held accountable by the board for the duties, actions, or work performed by such person; however, at no time shall the student's role extend beyond observing the supervising veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery. The student extern shall not perform supervision of any nature, as defined in §§700 and 702, of the tasks or procedures performed by other personnel of the facility at issue.

Furthermore, the duties, actions or work performed by the student extern shall not be considered a component of, nor applied to, the requirements regarding the preceptorship program, nor shall it run concurrently with, or be any part of the board's preceptorship program requirements.

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 29:1479 (Aug 2003), LR 34:

Wendy D. Parrish  
Administrative Director

0803#003

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Emergency Response Network Board

Emergency Response Network Board Provisions  
(LAC 48:I.18101, 18301-18305, and 18501-18507)

The Department of Health and Hospitals, Louisiana Emergency Response Network Board, has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act to adopt LAC 48.I.18101, 18301-18305, and 18501-18507, Louisiana Emergency Response Network Board, initial rules and regulations. This Emergency Rule effective March 14, 2008 will remain in effect for a period of 120 days.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Response Network Board were created within the Department of Health and Hospitals. The Louisiana Emergency Response Network Board is authorized by R.S. 40:2844(H) to adopt rules and regulations for board governance, by R.S. 40:2845(A)(3)(a) to adopt rules and regulations to provide for duties and responsibilities of the nine regional commissions, and by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 15. Louisiana Emergency Response Network Board

#### Chapter 181. General Provisions

##### §18101. Scope

A. These rules are adopted by the Louisiana Emergency Network (hereinafter LERN) Board (hereinafter board) to effectuate the provisions of R.S. 40:2841 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

#### Chapter 183. Louisiana Emergency Response Network (LERN) Board

##### §18301. Board Officers of Louisiana Emergency Response Network (LERN) Board

A. The chairman and vice-chairman, and any other officers that the board shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

B. In the case of a vacancy in the office of chairman, the vice-chairman shall serve the remainder of the vacated term, and in the case of a vacancy in the office of vice-chairman, the board shall elect a new vice-chairman who shall serve the remainder of the vacated term.

C. The chairman shall:

1. preside at all meetings of the board;
2. determine necessary subcommittees and working group and appoint members to each subcommittee and working groups;
3. direct activities of staff between board meetings;
4. provide direction on behalf of board between meetings to all regional commissions;
5. designate the date, time and place of board meetings;
6. enter into confidentiality agreements on behalf of the board regarding pertinent data to be submitted to board and board staff which contain individually identifiable health or proprietary information;
7. perform all other duties as may be assigned by the board.

D. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

E. A ground for removal of a board officer includes conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

##### §18303. Quorum

A. Eight members of the board shall constitute a quorum for all purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

##### §18305. Grounds for Removal of Board Members

A. Grounds for removal of board members include conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

#### Chapter 185. Regional Commissions; Membership; Officers; Meetings; Duties and Responsibilities

##### §18501. Regional Commission Membership

A. Selection of regional commission membership by Louisiana Emergency Response Network (LERN) Board

1. The process for selecting the regional commission members is as follows:

a. the LERN Board Chairman shall request in writing the name of a nominee to serve on each regional commission from each of the legislatively identified state organizations;

b. in the event there is more than one organization, state association or entity, each entity shall be requested to name a nominee and, once constituted, the commission shall choose from among the nominees; and

c. if no state or local organization exists in a category, but multiple nominees are identified in that category, the selection of the representative to serve on the regional commission will be determined by that category's group of nominees.

2. Once documentation is received from each organization or group, the compiled list of nominees is submitted to the board for ratification. The board shall appoint those selected by the various organizations.

B. Voting members of the regional commission may be added through a process employing the following steps:

1. majority vote of a quorum of voting members of the commission;

2. formal written request to LERN Board to add specified voting member, with reasons for adding. Such addition must represent a group which would enhance the working of the regional commission;

3. majority vote by LERN Board members at a meeting. If such a vote fails, the regional commission may appear in person at the following LERN Board meeting, where the subject will be revisited;

4. once an additional voting member is approved for one region, in order for other regions to add a member representing the same group, only a letter detailing the requirements of Paragraphs 1 through 3 above will be necessary to add the particular member. board approval will not require an additional vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

#### **§18503. Regional Commission Officers**

A. Each regional commission shall select a chairman and vice chairman.

B. The chairman and vice-chairman, and any other officers that the commission shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

C. In the case of a vacancy in the office of chairman, the vice-chairman shall serve as chairman for the remaining vacated term; and in the case of a vacancy in the office of vice-chairman, the regional commission shall elect a new vice-chairman who shall serve until the expiration of the vacated term.

D. The chairman shall:

1. preside at all meetings of the commission;

2. determine necessary ad hoc committees, appoint a commission member to chair each such committee, and provide for the commission as a whole to name the membership of the committee;

3. provide direction to the commission to implement the mandates of the LERN Board;

4. direct that a record of all meetings of the commission shall be kept and such records shall be retained

as permanent records of the transactions of the commission; and

5. perform all other duties pertaining to the office of chairman of the commission or as may be assigned by the commission.

E. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

#### **§18505. Regional Commission Meetings**

A. Meetings of the commission shall be noticed, convened and held not less frequently than quarterly during each calendar year and otherwise at the call of the chairman or on the written petition for a meeting signed by not less than the number of members which would constitute a quorum of the commission. Meetings shall be held on such date and at such time and place as may be designated by the chairman.

B. One third of the currently serving members of the commission shall constitute a quorum for all purposes. All actions which the commission is empowered by law to take shall be effected by vote of not less than a majority of the members present at a meeting of the commission at which a quorum is present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

#### **§18507. Regional Commission Duties and Responsibilities**

A. Each regional commission shall:

1. develop a written system plan for submission to LERN Board, which plan shall:

a. identify all resources available in the region for emergency and disaster preparedness and response;

b. be based on standard guidelines for comprehensive system development;

c. include all parishes within the region unless a specific parish portion thereof has been aligned within an adjacent region;

d. give an opportunity to all health care entities and interested specialty centers opportunity to participate in the planning process; and

e. address the following components:

i. injury prevention;

ii. access to the system;

iii. communications;

iv. pre-hospital triage criteria;

v. diversion policies;

vi. bypass protocols;

vii. regional medical control;

viii. facility triage criteria;

ix. inter-hospital transfers;

x. planning for the designation of trauma facilities, including the identification of the lead facility(ies); and

xi. a performance improvement program that evaluates processes and outcomes from a system perspective;



2. upon approval of the board, implement the system plan to include:

a. education of all entities about the plan components;

b. on-going review of resource, process, and outcome data; and

c. if necessary, revision and re-approval of the plan or plan components by LERN Board;

3. annually complete a regional needs assessment and conduct education and training within the region to meet the needs identified in the annual needs assessment;

4. develop and implement a regional Performance Improvement (PI) Program Plan;

5. develop and implement a regional injury prevention program;

6. at least quarterly, submit evidence of on-going activity, including meeting notices and minutes, to LERN Board; and

7. annually submit a report to LERN Board which describes progress toward system development and demonstrates on-going activity;

B. regional commission may request technical assistance from the LERN Board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

Lester W. Johnson, M.D.  
Chairman

0803#005

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office for Citizens with Developmental Disabilities and Office of Aging and Adult Services

Home and Community Based Services Waivers  
Termination of Services for Displaced Recipients  
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being 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 provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of

services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective April 15, 2008, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services adopts the following provisions governing the eligibility for home and community-based waiver services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXI. Home and Community Based Services

##### Waivers

##### Subpart 1. General Provisions

#### Chapter 3. Eligibility

#### §301. Termination of Coverage for Displaced Recipients

A. Effective July 1, 2006, waiver recipients who have been displaced by Hurricanes Katrina or Rita and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in the following home and community-based waivers:

1. the New Opportunities Waiver;
2. Children's Choice;
3. the Elderly and Disabled Adult Waiver; and
4. the Adult Day Health Care Waiver.

C. If the individual returns to live in Louisiana on or before June 2008, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other hurricane evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first-come, first-serve basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 34:

Implementation of this Emergency Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services,

P.O. Box 3767, Baton Rouge, LA 70821-3767. They are 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

0803#064

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of Aging and Adult Services

Home and Community Based Services Waivers  
Adult Day Health Care—Medical Assistance Program  
(LAC 50:XXI.2101, 2103, 2107,  
2109, 2313, 2317 and Chapter 27)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.2101, 2103, 2107, 2109, 2313 and Chapter 27, and to adopt §2317 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 repromulgated the provisions governing home and community-based waiver services for adult day health care (*Louisiana Register*, Volume 30, Number 9). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the September 20, 2004 Rule to: 1) clarify procedures for the allocation of ADHC waiver opportunities; 2) amend the provisions governing the medical certification process to remove preadmission screening and annual resident review requirements; and 3) eliminate the use of the Title XIX Medical-Social Information Form (Form 90-L) (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the September 20, 2004 Rule to: 1) redefine the target population; 2) establish provisions governing placement on the request for services registry; 3) clarify the comprehensive plan of care requirements; and 4) establish provider reporting requirements and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 3). The department amended the provisions contained in the March 20, 2007 Emergency Rule to more precisely define the target population, establish explicit provisions governing placement on the request for services registry and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 5). The May 20, 2007 Emergency Rule was amended to further clarify the provisions governing the ADHC Waiver program (*Louisiana Register*, Volume 33, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 20, 2007 Emergency Rule. This action is being taken to avoid federal sanctions which may result from not having

provisions to clearly define the ADHC target population and admission and discharge criteria.

Effective April 18, 2008, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions governing the Adult Day Health Care Waiver program.

## Title 50

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

#### Subpart 3. Adult Day Health Care

#### Chapter 21. General Provisions

#### §2101. Introduction

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waiver service under the provisions of Title XIX of the Social Security Act and is administered by the Department of Health and Hospitals (DHH).

B. Waiver services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana Medicaid 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 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### §2103. Program Description

A. The Adult Day Health Care (ADHC) Waiver Program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for five or more hours in a 24-hour weekday to individuals who are physically and/or mentally impaired.

B. The target population for the ADHC Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 22 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

C. The long-range goal for all adult day health care participants is the delay or prevention of long-term care facility placement. The more immediate goals of the Adult Day Health Care Waiver are to:

1. promote the individual's maximum level of independence;
2. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;
3. restore and rehabilitate the individual to the highest possible level of functioning;
4. provide support and education for families and other caregivers;
5. foster socialization and peer interaction; and
6. serve as an integral part of the community services network and the long-term care continuum of 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 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **§2107. Request for Services Registry**

A. The Department of Health and Hospitals is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the Adult Day Health Care Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the ADHC Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:

#### **§2109. Programmatic Allocation of Waiver Opportunities**

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

- a. is likely to require admission to a nursing facility within the next 120 days;
- b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
- c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **Chapter 23. Provider Participation** **§2313. Comprehensive Plan of Care (CPOC)**

A. ...

B. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC. Comprehensive plans of care must be completed and submitted timely in accordance with DHH policy and procedures.

C. The ADHC provider shall complete a CPOC which shall contain the type and number of services, including waiver and all other services, necessary to maintain the waiver recipient safely in the community.

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 30:2040 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **§2317. Reporting Requirements**

A. ADHC facilities are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. ADHC facilities are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department with the specified requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **Chapter 27. Admission and Discharge Criteria**

##### **§2701. Admission Criteria**

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;
2. initial and continued eligibility for a nursing facility level of care;
3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual;
4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §2701.A. above will result in denial of admission to the ADHC Waiver.

C. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

**§2703. Denial or Discharge Criteria**

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

1. The individual does not meet the criteria for Medicaid financial eligibility.
2. The individual does not meet the criteria for a nursing facility level of care.
3. The recipient resides in another state or has a change of residence to another state.
4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services during a period of 30 consecutive days.
5. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.
6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.
7. It is not cost effective to serve the individual in the ADHC Waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. 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

0803#062

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of Aging and Adult Services**

Home and Community Based Services Waivers  
Elderly and Disabled Adult Waiver  
(LAC 50:XXI.Chapters 81 and 85)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.Chapters 81 and 85 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, Division of Long Term Supports and Services amended the provisions governing the Elderly and Disabled Adult (EDA) Waiver to: 1) eliminate the duplication of like services currently provided in the waiver and as a Medicaid State Plan service;

2) define the existing service package and establish new services; and 3) revise the methodology for allocation of waiver opportunities (*Louisiana Register*, Volume 32, Number 7). The department promulgated an Emergency Rule to amend the July 20, 2006 Rule to establish provisions governing placement on the request for services registry (*Louisiana Register*, Volume 33, Number 3). The department subsequently promulgated an Emergency Rule to further clarify the provisions governing the EDA Waiver, including the provisions governing placement on the request for services registry, allocation of waiver opportunities and admission and discharge criteria (*Louisiana Register*, Volume 33, Number 5). The May 20, 2007 Emergency Rule was amended to further clarify the provisions governing the EDA Waiver (*Louisiana Register*, Volume 33, Number 8).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to establish additional waiver opportunities in the EDA Waiver Program for individuals diagnosed with Amyotrophic Lateral Sclerosis (ALS). In compliance with Act 18, the department amended the provisions governing the programmatic allocation of EDA Waiver opportunities and continued the provisions of the August 20, 2007 Emergency Rule (*Louisiana Register*, Volume 33, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2007 Emergency Rule.

This action is being taken to promote the well-being of Louisiana citizens by facilitating access to home and community-based services through the adoption of clear and precise provisions for the EDA Waiver, and to assure that individuals diagnosed with ALS receive priority access to EDA Waiver services.

Effective March 20, 2008, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions governing the Elderly and Disabled Adult Waiver program.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXI. Home and Community Based Services Waiver**

**Subpart 7. Elderly and Disabled Adults Waiver**

**Chapter 81. General Provisions**

**§8101. Introduction**

A. The target population for the Elderly and Disabled Adult (EDA) Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 21 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

**§8103. Request for Services Registry**

A. The Department of Health and Hospitals (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Elderly and Disabled

Adult Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the EDA Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

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 Community Supports and Services, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **§8105. Programmatic Allocation of Waiver Opportunities**

A. When funding is appropriated for a new EDA Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible EDA Waiver opportunity assignment.

B. EDA Waiver opportunities are offered based on the date of first request for services, with priority given to individuals who are in a nursing facility, but could return to their home if EDA Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. An individual is considered to be at imminent risk of nursing facility placement when he:

- a. is likely to require admission to a nursing facility within the next 120 days;
- b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
- c. has a primary caregiver who has a disability or is age 70 or older.

C. One hundred and fifty EDA Waiver opportunities are reserved for qualifying individuals who have been diagnosed with Amyotrophic Lateral Sclerosis (ALS). Qualifying individuals who have been diagnosed with ALS shall be offered an opportunity on a first-come, first-serve basis.

D. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

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

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 Community Supports and Services, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR

32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **Chapter 85. Admission and Discharge Criteria**

##### **§8501. Admission Criteria**

A. - A.2. ...

3. justification, as documented in the approved CPOC, that the EDA Waiver services are appropriate, cost effective and represent the least restrictive environment for the individual; and

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of EDA Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §8501.A. will result in denial of admission to the EDA Waiver.

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 Community Supports and Services LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

##### **§8503. Denial or Discharge Criteria**

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

1. - 2. ...

3. The recipient resides in another state or has a change of residence to another state.

4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing EDA Waiver services (exclusive of support coordination services) for a period of 30 consecutive days.

5. The health, safety and welfare of the individual cannot be assured through the provision of EDA Waiver services within the individual's cost effectiveness.

6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

7. Failure on behalf of the individual to maintain a safe and legal home environment.

8. It is not cost effective to serve the individual in the EDA Waiver.

9. - 10. 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 Community Supports and Services, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. 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

0803#063

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of Aging and Adult Services

#### Nursing Facilities—Standards for Payment Level of Care Determination (LAC 50:II.10154)

The Department of Health and Hospitals, Office of the Secretary, proposes to amend LAC 50:II.10154 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 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, Division of Long Term Supports and Services amended the Medicaid standards governing nursing facility levels of care to incorporate a new tool for the nursing facility determination of level of care. This new tool, the Level of Care Eligibility Tool (LOCET), established uniform criteria which are utilized in the determination of level of care for nursing facility services (*Louisiana Register*, Volume 32, Number 11). The Office of Aging and Adult Services, by Emergency Rule, amended the November 20, 2006 Rule to provide clarification regarding the level of care determination for nursing facility admission, (*Louisiana Register*, Volume 33, Number 11). The department now proposes to amend the December 1, 2007 Emergency Rule to further clarify the provisions governing nursing facility level of care determinations.

This action is being taken to promote the well-being of Louisiana citizens by clarifying the criteria and tools utilized for the level of care determination for nursing facility admission and continued stay.

Effective March 31, 2008, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions of the November 20, 2006 Rule governing the level of care determination for nursing facility admission and continued stay.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Medical Assistance Program

#### Subpart 3. Standards for Payment

### Chapter 101. Standards for Payment for Nursing Facilities

#### Subchapter G. Levels of Care

#### §10154. Determination of Nursing Facility Level of Care

A. ...

B. Definition of Nursing Facility Level of Care. The nursing facility level of care determination is based on the Resource Utilization Groups III (RUG-III) case mix system used in the Medicare Program and at least half of all state

Medicaid programs. RUG-III is a patient classification system that measures for the relative resource utilization of different nursing facility patient types [*Federal Register*, Volume 63, Number 91 (May 12, 1998)]. It is utilized to ensure consistency, uniformity, and reliability in making nursing facility level of care determinations.

1. RUG-III assigns each nursing facility resident to one of 44 distinct classification groups, based on the characteristics of the resident as assessed in the Nursing Home Minimum Data Set (MDS), so as to predict the resources expected to be used to meet the resident's functional support requirements and medical needs. The Long Term Care Resident Assessment Instrument User's Manual for the MDS explains how resident characteristics are used to assign an individual to a RUG-III classification.

2. Medicare presumes that individuals assigned to the upper 26 of 44 RUG-III classification groups meet the skilled nursing facility level of care definition set forth in federal law. However, states have the discretion to establish their own definitions of nursing facility level of care for purposes of the Medicaid Program.

3. Louisiana defines nursing facility level of care for Medicaid eligible individuals as the care required by individuals with needs greater than those identified by the lowest of the RUG-III classification groups (i.e., Physical Function Reduced Group A, with or without rehabilitation, also known as PA1 and PA2). Individuals determined to be in any of the upper 42 of 44 RUG-III classification groups meet the level of care for nursing facility admission and/or continued stay for the purposes of the Louisiana Medicaid Program.

C. Level of Care Determination. The Level of Care Evaluation Tool (LOCET) is used to assess whether an individual meets the nursing facility level of care. The LOCET is derived from selected information in the Minimum Data Set (MDS), which is the standardized assessment tool used by Medicare to assign nursing facility residents to a RUG-III classification group. Consistent with the standard of nursing facility level of care defined in Paragraph B, the MDS data elements included in LOCET are those necessary to determine whether an individual would be assigned to a RUG-III category other than PA1 or PA2. To make this assessment, LOCET questions address the individual's need for assistance with the activities of daily living; cognitive function; skilled rehabilitative services; physician involvement; behavior; and certain treatment and conditions.

1. The LOCET information must be provided by the applicant or someone who is sufficiently familiar with the applicant to be able to provide all required information completely and accurately.

2. If on audit review or other subsequent face-to-face interview, the LOCET findings are determined to be incorrect, the audit or subsequent face-to-face interview findings will prevail.

D. Service Dependency. Individuals who were approved for services prior to December 1, 2006 and who require continued ongoing services to maintain current functional status are deemed to meet the definition set forth in Paragraph B for purposes of continued eligibility for those services.

E. Supporting Documentation. As directed by the Department, applicants may be required to submit documentation necessary to support the determination of nursing facility level of care.

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, Division of Long Term Supports and Services, LR 32:2082 (November 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. 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

0803#060

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Disproportionate Share Hospital Payment Methodologies Distinct Part Psychiatric Unit Expansions (LAC 50:V.315)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.315 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 promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session of the Louisiana Legislature, the June 26, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 26, 2005 Emergency Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita;

3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 and Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to: 1) revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals (*Louisiana Register*, Volume 33, Number 7); 2) repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals; and 3) repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10).

Act 18 also authorized expenditures to the Medical Vendor Program for disproportionate share payments to non-state acute care hospitals that expand their distinct part psychiatric unit beds and enter into an agreement with the Office of Mental Health (OMH) to provide inpatient psychiatric services. In compliance with Act 18, the department amended the October 20, 2007 Emergency Rule to adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 1). The department now proposes to amend the January 1, 2008 Emergency Rule to establish provisions for DSH payments to non-state acute care hospitals that enroll a new distinct part psychiatric unit and enter into an agreement with OMH. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of inpatient psychiatric services.

Effective March 3, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-state acute care hospitals that expand their distinct part psychiatric units or enroll a new distinct part psychiatric unit.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

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

##### Subpart 1. Inpatient Hospitals

#### Chapter 3. Disproportionate Share Hospital Payment Methodologies

##### §315. Distinct Part Psychiatric Unit Expansions

A. Effective for dates of service on or after January 1, 2008, Medicaid enrolled non-state acute care hospitals that

expand their distinct part psychiatric unit beds, and sign an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

1. Repealed.

B. Effective for dates of service on or after March 3, 2008, Medicaid enrolled non-state acute care hospitals that enroll a new distinct part psychiatric unit, and sign an addendum to the Provider Enrollment form (PE-50) by April 3, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

C. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

1. Repealed.

D. The amount appropriated for this pool in SFY 2008 is \$7,000,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$7,000,000, payment will be the lesser of each qualifying hospital's net uncompensated care costs or its pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment and multiplying by \$7,000,000.

E. Qualifying hospitals must submit costs and patient specific data in a format specified by the department.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

F. Payments shall be made on a quarterly basis.

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:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips at 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

0803#017

## **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Medicaid Eligibility—Disability Medicaid Program  
(LAC 50:III.2305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2305 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.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals are not currently included as an eligibility category under Louisiana's Medicaid State Plan and must be referred to the Social Security Administration for assistance. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance. Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to include this optional coverage group under the Medicaid State Plan and provide Medicaid-only services in the Disability Medicaid Program (*Louisiana Register*, Volume 33, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2007 Emergency Rule. This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective April 17, 2008 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to provide Medicaid-only coverage to individuals who are aged or have a disability through the Disability Medicaid Program.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part III. Eligibility**

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

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

#### **§2305. Disability Medicaid Program**

A. The Disability Medicaid Program provides Medicaid-only coverage to individuals who are aged or have a disability, and who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid State Plan.

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:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, 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

0803#065

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Mental Health Rehabilitation Program—Moratorium on  
Mental Health Rehabilitation Providers (LAC 50:XV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.701 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 promulgated a Rule to adopt a moratorium on the enrollment of mental health rehabilitation (MHR) providers to participate in the Medicaid Program (*Louisiana Register*, Volume 31, Number 3). The department by Emergency Rule repealed the provisions of the March 20, 2005 Rule governing the moratorium on the enrollment of MHR providers (*Louisiana Register*, Volume 33, Number 7). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2007 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety and welfare of Louisiana citizens who are not able to access necessary mental health services due to a critical shortage of MHR providers since Hurricanes Katrina and Rita.

Effective March 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the provisions governing the moratorium on the enrollment of MHR providers.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 1. Mental Health Rehabilitation

#### Chapter 7. Provider Participation Requirements

##### Subchapter A. Certification and Enrollment

#### §701. Provider Enrollment Moratorium

##### A. 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 31:668 (March 2005), amended LR 32:2069 (November 2006), repealed LR 34:

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 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

0803#066

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facility Minimum Licensing Standards  
Emergency Preparedness  
(LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. 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 promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities.

In compliance with the directives of Act 540, the department amended the January 20, 1998 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department subsequently amended the December 20, 2006 Rule, by Emergency Rule, to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 33, Number 6). As result of public hearing comments received, the department has determined that it is necessary to amend the June 10, 2007 Emergency Rule to furnish additional clarification of the emergency preparedness provisions for nursing facilities. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of nursing facilities in the event of declared disasters or other emergencies.

Effective March 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness requirements for nursing facilities.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

##### Subpart 3. Licensing

#### Chapter 97. Nursing Homes

##### Subchapter B. Organization and General Services

#### §9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the current Louisiana

Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. All nursing facilities located in the parishes named in R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the department for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

i. a copy of the nursing facility's emergency preparedness plan;

ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;

iii. the current census and number of licensed beds; and

iv. the facility location and current contact information.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current facility information into the Health Standards Section's (HSS) Emergency Preparedness webpage.

1. The following information shall be entered into the HSS Emergency Preparedness webpage before the fifteenth of each month:

a. operational status;

b. census;

c. contact and location information; and

d. evacuation transportation needs categorized by the following types:

i. total number needing a coach or bus;

ii. total number needing a para-transit or wheelchair accessible vehicle;

iii. total number needing a basic life support ambulance; or

iv. total number needing an advance life support ambulance.

2. A facility shall also enter information within 24 hours of an emergency event. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

3. In addition, a facility shall enter updated information requested by the department within 48 hours.

B.4. - 12.i.v. Repealed.

C. The emergency preparedness plan shall be individualized and site specific. All information submitted shall be current and correct. At a minimum, the nursing facility shall have a written emergency preparedness plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of evacuation determinations;

2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of sheltering in place determinations;

3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk. These host sites must be verified by written agreements or contracts that have been signed and dated by all parties. These agreements or contracts shall be verified annually;

4. the policies and procedures for mandatory evacuations:

a. if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority prior to the mandated evacuation;

5. the monitoring of weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:

a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed;

6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

7. the provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

8. an executable plan for coordinating transportation services that are adequate for the resident census and staff. The vehicles required for evacuating residents to another location shall be air-conditioned when available. The plan shall include the following information:

a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:

i. an ambulance for advanced life support;

ii. an ambulance for basic life support;

iii. a wheelchair accessible or para-transit vehicle; and/or

iv. a van, coach or bus;

b. a written transportation contract(s) that is signed and dated by all parties for evacuating residents and staff to a safe location outside the area of risk. Vehicles that are owned by or at the disposal of the facility must have a written usage agreement that is signed, dated and includes verification of ownership;

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

c. the transportation contract and the written usage plans shall include:

i. the number and type of vehicles included in the contract;

ii. the capacity of each vehicle included in the contract; and

iii. a statement of whether each vehicle is air conditioned; and

d. plans to prevent and treat heat related medical illnesses due to the failure of or the lack of air conditioning during transport;

9. the procedures to notify the resident's family or responsible representative of the facility's intent to either shelter in place or evacuate. The facility shall have a designee(s) to be responsible for this notification. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

- i. name;
- ii. address; and
- iii. telephone number; and

c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

NOTE: Notification to the resident's family or responsible party shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation.

10. the procedures or methods that will be used to attach identification to the nursing facility resident. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the resident during all phases of an evacuation and shall include the following minimum information:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

11. the procedures for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication; and
- e. other necessary supplies;

NOTE: The facility shall designate a staff person to be responsible for ensuring that essential supplies are available during all phases of the evacuation.

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation:

a. for buses transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus:

i. a licensed therapist(s) may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

NOTE: A nursing facility shall be considered sheltering in place if the facility elects to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the facility is located pursuant to R.S. 29:724.

a. if the nursing facility shelters in place, the facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:

- i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the facility;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. if the nursing facility shelters in place, the facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The facility shall designate a staff person to be responsible for this function. The communication plan shall include:

- i. the type of equipment to be used;
- ii. back-up equipment to be used if available;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;

c. the facility's plan must include a statement indicating whether the facility has a generator for sheltering in place. If the facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the facility has such a generator, the plan shall provide a list of the generator's capabilities including:

- i. its ability to provide cooling or heating for all or designated areas in the facility;
- ii. the ability to power an OPH approved sewerage system;
- iii. the ability to power an OPH approved water system;
- iv. the ability to power medical equipment;
- v. the ability to power refrigeration;
- vi. the ability to power lights; and
- vii. the ability to power communications;

d. an assessment of the integrity of the facility's building to include, but not be limited to:

- i. wind load or ability to withstand wind;
- ii. flood zone and flood plain information;
- iii. power failure;
- iv. age of building and type of construction; and
- v. determinations of, and locations of interior safe zones;

e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place; and

f. the facility's plan must include instructions to notify OHSEP and DHH of the facility's plan to shelter in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the facility's integrity. The integrity of the facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea

level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the facility's determinations and the following documentation:

- a. the facility's latitude and longitude;
- b. flood zone determination for the facility and base flood elevation, if available:
  - i. the facility shall evaluate how these factors will affect the building;
- c. elevations of the building(s), Heating Ventilation and Air Conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable:
  - i. the facility shall evaluate how these factors will affect the facility considering projected flood and surge water depths;

d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:

- i. the construction type and age;
- ii. roof type and wind load;
- iii. windows, shutters and wind load;
- iv. wind load of shelter building;
- v. location of interior safe zones;

NOTE: If wind load determinations are not available, the facility shall give the reason.

e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;

f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

- i. trees;
- ii. towers;
- iii. storage tanks;
- iv. other buildings;
- v. pipe lines;
- vi. chemical and biological hazards; and
- vii. fuels;

g. sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM) for the facility's specific location and the findings for all categories of hurricanes. The model will be done using both mean and high tides. The facility's plan must include an evaluation of how this will or will not affect the facility;

16. the facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

17. the facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The facility's plan shall include the following:

- a. the areas being used as shelter or safe zones;
- b. the supply and emergency supply storage areas;
- c. the emergency power outlets;
- d. the communications center;
- e. the location of the posted emergency plan:
  - i. the posted location must be easily accessible to staff; and
- f. a pre-designated command post.

#### D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place and evacuation plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's Nursing Facility Emergency Preparedness Manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts must be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

1. For nursing facilities listed in the R.S. 40:2009.25(A), the following requirements must be met.

a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.

b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to DHH nursing home preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

1. - 2. Repealed.

G. The facility's plan shall follow all applicable laws, standards, rules or regulations.

1. - 2c. Repealed.

H. Evacuation, Temporary Relocation or Temporary Cessation

1. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location an emergency event.

a. The nursing facility must immediately give written notice to the Health Standards Section by hand delivery, facsimile or email of the following information:

- i. the date and approximate time of the evacuation;
- ii. the sheltering host site(s) to which the nursing facility is evacuating; and
- iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility must notify the Health Standards Section of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency event and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location and shall notify DHH Health Standards within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility must submit to health Standards a written request to reopen, prior to

reopening at the licensed location. That request shall include:

- i. damage report;
- ii. extent and duration of any power outages;
- iii. re-entry census;
- iv. staffing availability;
- v. access to emergency or hospital services; and
- vi. availability and/or access to food, water, medications and supplies.

d. - e. Repealed.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

- a. approval of reopening without survey;
- b. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or
- c. denial of reopening.

4. The purpose of these surveys referenced in G(5) above is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

b. The Health Standards Section will give priority to reopening surveys.

5. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

I. Sheltering in Place. If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

2. Repealed.

#### J. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed 15 days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension shall be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 33:978 (June 2007), LR 34:

Interested persons may submit written comments to Jerry Phillips, 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 proposed Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0803#061

### **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

School Based Health Centers (LAC 50:XV.Chapter 91)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.Chapter 91 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 Adolescent School Health Initiative Act of 1991, R.S. 40:31.3, directed the Department of Health and Hospitals, Office of Public Health to establish an adolescent school health initiative to facilitate and encourage development of comprehensive health centers in public middle and secondary schools to provide preventive health services, counseling and acute health services to students. In compliance with the directives of the Adolescent School Health Initiative Act, the Department established School Based Health Centers (SBHCs) to provide convenient access to preventive and primary health services for students who might otherwise have limited or no access to health care. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive (*Louisiana Register*, Volume 33, Number 9). The August 25, 2007 Emergency Rule was subsequently amended to clarify the scope of services for School Based Health Centers (*Louisiana Register*, Volume 33, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2007 Emergency Rule.

This action is being taken to promote the public health and well-being of children by providing access to needed mental health services.

Effective April 19, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes provisions governing the reimbursement of mental health services and other Medicaid-covered services already provided by School Based Health Centers.

## **Title 50**

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

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

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

###### **Chapter 91. School Based Health Centers**

###### **Subchapter A. General Provisions**

###### **§9101. Purpose**

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools.

B. School Based Health Centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical and emotional health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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:

###### **Subchapter B. Provider Participation**

###### **§9111. Provider Qualifications**

A. The SBHC classification must be verified by the Office of Public Health, Adolescent School Health Program when applying for a Medicaid provider number.

1. Documentation of this verification must be provided upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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:

###### **§9113. Standards of Participation**

A. School Based Health Centers must comply with the applicable licensure, certification and program participation standards for all services rendered. The SBHC shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be rendered;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. The SBHC shall provide comprehensive primary medical, social and mental health services, as well as health education, promotion and prevention services to meet the psychosocial and physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. School Based Health Centers shall acquire written parental consent in order to enroll a student as a patient.

D. The SBHC and all partners involved in service delivery must adhere to Health Insurance Portability and Accountability Act (HIPAA) privacy policies and procedures.

E. The SBHC must be enrolled as a KIDMED screening provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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:

###### **Subchapter C. Services**

###### **§9121. Scope of Services**

A. The Medicaid Program provides reimbursement for the following medically necessary health care services provided by School Based Health Centers:

1. preventive health care services; and

2. evaluation, diagnosis and treatment of mental and behavioral health conditions.

A.3-6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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:

## Subchapter D. Staffing Requirements

### §9131. Minimum Staffing Requirements

A. School Based Health Centers shall have one or more primary care providers on staff, including a:

- a. physician;
- b. physician assistant; or
- c. nurse practitioner.

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:

### §9133. Staffing Qualifications for Mental Health Services

A. Mental health services rendered in Medicaid-enrolled SBHCs shall be provided by the following licensed, professional staff:

1. psychiatrists;
2. psychologists;
3. clinical nurse specialists;
4. nurse practitioners;
5. licensed clinical social workers; or
6. licensed professional counselors.

B. Professionals providing mental health services must:

1. be licensed and provide services under the provisions and scope of their Louisiana Practice Act;
2. be enrolled in Louisiana Medicaid and linked to the SBHC where services are rendered; and
3. adhere to any additional training or educational requirements in the mental health area as set forth in Medicaid SBHC policy.

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:

## Subchapter E. Reimbursement

### §9141. Reimbursement Methodology

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan.

B. Medicaid covered services provided by SBHCs shall be reimbursed at the lower of either:

1. the provider's billed charges minus any third party coverage; or
2. the state's established schedule of fees for the service rendered, minus any third party 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, 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

0803#067

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

CCAP-Child Care Assistance Program  
(LAC 67:III.5107)

The Department of Social Services, 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, Title 67:III, Subpart 12 Chapter 51, Subchapter B, Child Care Providers, §5107. This Emergency Rule shall be effective March 28, 2008, and shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective November 30, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the April 2008 issue.)

Currently, an individual or a Family Child Day Care Home provider who resides with or employs a person who has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. could become a CCAP provider if approved in writing by a district judge of the parish and the local district attorney. However, state law does not allow such exceptions.

Section §5107 is being amended to comply with state law so that an individual will no longer be able to be a CCAP provider if a required criminal background check is not clear, even if approved in writing by a district judge of the parish and the local district attorney.

Emergency rulemaking is needed because the current Louisiana Administrative Code is contradictory to state law.

### Title 67

### SOCIAL SERVICES

### Part III. Office of Family Support

### Subpart 12. Child Care Assistance Program

### Chapter 51. Child Care Assistance Program

### Subchapter B. Child Care Providers

### §5107. Child Care Provider

A. - E. ...

F. Under no circumstances can the following be considered an eligible CCAP provider:

1. - 4. ...

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C);

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C;

F.7. - I.2.b....

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:

Ann Silverberg Williamson  
Secretary

0803#051

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Rehabilitation Services**

Vocational Rehabilitation Policy Manual  
(LAC 67:VII.115)

The Department of Social Services, Louisiana Rehabilitation Services, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:VII, Chapter 1, §115, Financial. This Emergency Rule, effective April 4, 2008, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule which was published December 20, 2007, and was effective December 7, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect.

Currently, the provision of hearing aids does not require a financial needs test and no financial participation is required as a condition for furnishing this vocational rehabilitation service. This Rule redefines financial participation for the provision of hearing aids and places it under a financial needs test.

Louisiana Rehabilitation Services is invoking this Emergency Rule to avoid deficit spending and to ensure that the agency has sufficient funds to continue the provision of services to existing consumers who are in the midst of their vocational rehabilitation program and to whom the agency has committed to fund. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services and the health and welfare of existing LRS consumers currently being served by the Vocational Rehabilitation Program.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 1. General Provisions**

**§115. Financial**

A. - A.1.c.i.(f). ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. - 2. ...

a. Neither a financial needs test, nor a budgetary analysis is applied and no financial participation is required

as a condition for furnishing the following vocational rehabilitation services:

i. - ix. ...

x. assistive technology devices and services (except hearing aids);

xi. ...

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. - g. ...

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i - xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

B.3. - C. ...

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:

Ann Silverberg Williamson  
Secretary

0803#057



## DECLARATION OF EMERGENCY

### Department of Revenue Policy Services Division

#### Wind or Solar Energy Systems Tax Credits (LAC: 61:I.1907)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, the Secretary of the Department of Revenue hereby adopts Emergency Rule LAC 61:I.1907 pertaining to the administration of the wind or solar energy system income tax credits allowed by R.S. 47:6030. This Emergency Rule shall be effective April 1, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

#### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 19. Miscellaneous Tax Exemptions

#### §1907. Income Tax Credits For Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state.

#### B. Definitions

*Charge Controller*—an apparatus designed to control the state of charge of a bank of batteries.

*Grid-Connected, Net Metering System*—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's, the New Orleans City Council's, or other Louisiana utility regulatory entity, as appropriate, established Net Metering rules and procedures.

*Inverter*—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

*Photovoltaic Panel*—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

*Residence*—a single family dwelling, one dwelling unit of a multi-family owner occupied complex, or one residential dwelling unit of a rental apartment complex. All eligible residences must be located in Louisiana.

*Solar Electric System*—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus

necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

*Solar Thermal System*—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

*Supplemental Heating Equipment*—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

*Wind Energy System*—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

#### C. Household Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Each residence or apartment project in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence or apartment project is supplied with all of its energy needs.

2. The credit for the purchase and installation of a wind energy system or solar energy system by a resident individual at his residence shall be claimed by the resident individual on his Louisiana individual income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

4. All wind or solar energy systems must be installed in the immediate vicinity of the residence or apartment project claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence or apartment project.

5. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system the components for each system must be purchased and installed at the same time as a system. Eligible components of systems are defined in Paragraph D.2 through D.4 below.

#### D. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems. Local and state taxes are an eligible system cost.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	Mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connect net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	Photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	Photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Solar Pool Heating System	Solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following as applicable to your particular solar or wind energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
  - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
  - ii. Solar Thermal Systems—listed SRCC annual BTU or equivalent kWh output;
  - iii. Wind Electric Systems—total rated kW of all alternators and generators;
  - iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated by:
  - i. equipment costs;
  - ii. installation costs;
  - iii. taxes;

e. make, model, and serial number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;

f. name and Louisiana contractor's license number of installer;

g. copy of the modeled array output report using the PV Watts Solar System Performance Calculator developed by the National Renewable Energy Laboratory and available at the website [www.nrel.gov/rredc/pvwatts](http://www.nrel.gov/rredc/pvwatts). The analysis must be performed using the default PV Watts de-rate factor;

h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a Solar Pathfinder or Solmetric demonstrating the suitability of the site for installation of a solar energy system.

E. Tax Exemption Eligibility of Certain Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection D above. Equipment costs must be in accordance with Subsection D above.

a. All installations must be performed by a contractor duly licensed by and in good standing with the Louisiana State Contractors Licensing Board, the owner of the residence, or by a person who has received certification by a technical college in the installation of such systems.

b. Two months after the effective date of this Section, all installations must be performed by the contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board with a classification of Solar Energy Equipment and a certificate of training in the design and installation of solar energy systems from an industry recognized training entity, or a Louisiana technical college, or the owner of the residence.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

4. Solar or wind energy systems or components for which tax credits are received are not eligible for a second tax credit if resold.

5. Any solar or wind energy system for which a tax credit is received must remain on the structure to which it was originally attached or on another structure located within Louisiana owned and operated by the individual receiving the credit for a minimum of five years from the date of installation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6014 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

Cynthia Bridges  
Secretary

0803#039

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Snapper—Individual Fishing Quota and  
Minimum Size Limit**

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally 3 miles offshore. Rules were established by NMFS on January 3, 2008, to reduce the commercial and recreational vermilion snapper minimum size limit; eliminate the bag limit restriction for vermilion snapper within the existing 20-fish aggregate reef fish bag limit; eliminate the 40-day commercial closure for vermilion snapper, and modify Individual Fishing Quota (IFQ) requirements for the commercial red snapper fishery. Further rules were promulgated by NMFS on January 29, 2008 to enact provisions of the red snapper rebuilding plan (Reef Fish Amendment 27/Shrimp Amendment 14). These rules included modifications to the recreational season and bag limit, charter vessel captain and crew limit, commercial size limit, among other provisions. Some of the provisions of Amendment 27/14 had previously been addressed as "interim rules" by NMFS in April 2007, and the Wildlife and Fisheries Commission had enacted compatible rules through a Declaration of Emergency at their April 2007 meeting. Some of the provisions enacted by NMFS as part of the final Amendment 27/14 are not within the authority of the Wildlife and Fisheries Commission rulemaking process, but others can be established by the Commission. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that Emergency Rules be enacted. This Emergency Rule includes the provisions of the Emergency Rule passed by the Wildlife and Fisheries Commission at their February 2008 meeting, as well as provisions related to establishing rules compatible with Amendment 27/14, since both sets of rules pertain to the same fisheries and to the same section of commission rules.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and

the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

NMFS has clarified landing and offloading requirements for the red snapper Individual Fishing Quota (IFQ) program. Effective 6 a.m. February 8, 2008, IFQ fishermen can land their vessels anytime during the day and night, provided that a landing notification has been given 3 to 12 hours prior to landing; can only offload red snapper from 6 a.m. to 6 p.m.; and do not need to give law enforcement an offloading notification for red snapper. For the purposes of these regulations, the term *landing* means tying a vessel to a dock. *Offloading* means removing red snapper from a vessel.

Effective immediately, the commercial and recreational vermilion snapper minimum size limit is reduced from 11 inches to 10 inches total length; the 10 fish recreational bag limit restriction for vermilion snapper within the existing 20-fish aggregate reef fish bag limit is eliminated;

and the 40-day commercial closure for vermilion snapper is eliminated, which extended from April 22 through May 31 each year.

Effective immediately, the commercial minimum size for red snapper is reduced from 15 inches to 13 inches total length.

The recreational red snapper season is established to open on June 1, 2008, and remain open through September 30, 2008. The recreational bag limit for red snapper shall be 2 fish per person per day during this open season. Captain and crew members shall not harvest or possess red snapper or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

Patrick C. Morrow  
Chairman

0803#052

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agro Consumer Services

Weights and Measures (LAC 7:XXXV.101 and 137)

The Commissioner of Agriculture and Forestry adopts by reference that part of Handbook 130 issued by the National Institute of Standards and Technology entitled *Examination Procedure for Price Verification* and adopts rules and regulations governing the sale or offer or exposure for sale of mulch. These regulations are being adopted in accordance with the Louisiana Administrative Procedure Act, (R.S. 49:950 et seq.). These Rules are enabled by R.S. 3:4608 and R.S. 3:4613(C).

Handbook 130 establishes national recognized standards to be used in matters involving weights and measures. The part of Handbook 130 that is being adopted establishes standards governing the conduct of examinations to verify prices of goods offered for sale to consumers.

Mulch is primarily sold in terms of volume, such as cubic feet or yards, but there are no state or federal laws or regulations specifying the manner in which the volume of mulch sold or offered or exposed for sale is to be determined. Mulch, therefore, could be sold by methods that determine the volume of mulch based on weight. Usually, the method of determining volume based on weight is used to measure the volume of commodities where substantial change in density or weight can not be caused by external factors. Determining volume by weight, although not currently prohibited for determining the volume of mulch, has not been traditionally used in determining the volume of mulch and is generally frowned on in the industry.

Mulch is a commodity where substantial change in density or weight can be caused by external factors, such as water. Mulch sold after a major rain will weigh substantially more than mulch sold after a dry spell. A purchaser of mulch after a major rain, therefore, will receive less mulch by volume than a purchaser after a dry spell, if the volume is determined by weight. The determination of the volume of mulch by weight leaves consumers of this state subject to arbitrary reductions in the volume of mulch being purchased based on external factors. Such a determination also leaves consumers of this state open to fraud through the addition of water to mulch by unscrupulous vendors. The use of weight to determine the volume of mulch has, in fact, caused one or more lawsuits to be filed. The ultimate purchasers of mulch are generally household consumers who have little ability to determine if the measure of the mulch purchased is correct.

The Commissioner of Agriculture and Forestry has, therefore, determined that these rules and regulations are

necessary in order to protect the public and to ensure that commodities are sold through the use of accurate weights and measures.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

#### Chapter 1. Weights and Measures

#### §101. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

A. All of Handbook H-44 issued by the National Institute of Standards and Technology entitled Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices is hereby adopted by reference.

B. That part of Handbook 130 issued by the National Institute of Standards and Technology entitled Examination Procedure for Price Verification is hereby adopted by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended LR 23:857 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Commission, LR 24:1495 (August 1998), LR 34:408 (March 2008).

#### §137. Mulch; Definition; Sale by Volume; Prohibitions

A. Mulch is any product or material that is sold or offered or exposed for sale for primary use as a horticultural, aboveground dressing, for decoration, moisture control, weed control, erosion control, temperature control, or other similar purposes.

B. All mulch shall be sold or offered or exposed for sale in terms of volume measured by either the metric system or the inch-pound system.

1. If mulch is sold by the metric system, the volume of mulch shall be measured in terms of the cubic meter or liter.

2. If mulch is sold by the inch-pound unit the volume of mulch shall be measured in terms of the cubic yard or cubic foot.

C. Weight shall not be used in determining the volume of mulch being sold or offered or exposed for sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and R. S. 3:4613(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Weights and Measures Commission, LR 34:408 (March 2008).

Mike Strain, DVM  
Commissioner

0803#016

## RULE

### Board of Elementary and Secondary Education

Board of Elementary and Secondary Education  
(LAC 28:I.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the Louisiana Administrative Code, Title 28, Part I. This document is the code of conduct for the Board of Elementary and Secondary Education and replaces any previously advertised versions. All other policies previously contained in this document have either been rescinded and/or appropriately assigned to other bulletins containing rules affecting agencies external to BESE.

#### Title 28 EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 1. General Provisions

##### §101. Purpose

A. These rules and any amendment adopted in conformity with these provisions shall govern the operating procedures of the Board of Elementary and Secondary Education (BESE), its officers and staff, its committees and advisory councils, and the State Superintendent of Education of the Louisiana Department of Education (LDE).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §103. Definitions

*BESE* and/or *Board*—the Board of Elementary and Secondary Education as created by the Louisiana Constitution and the Louisiana Revised Statutes.

*Constitution*—the Constitution of the State of Louisiana.

*Department of Education, Department, or LDE*—the Louisiana Department of Education, the administrative arm of the Board of Elementary and Secondary Education.

*House*—the Louisiana House of Representatives.

*Senate*—the Louisiana Senate.

*State Superintendent*—the Superintendent of Education, who shall be the chief administrative officer of the Louisiana Department of Education and shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §105. Effective Period

A. These rules shall take effect upon final adoption by the board and in accordance with the Administrative Procedure Act (APA). These rules shall expire upon adoption of other rules by the board in accordance with the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

#### Chapter 3. Composition and General Authority

##### §301. Creation

A. The Board of Elementary and Secondary Education is created as a body corporate. It shall supervise and control the public elementary and secondary schools and special schools

under its jurisdiction and shall have budgetary responsibility of all funds appropriated or allocated by the state for those schools, all as provided by law. The board shall have other powers, duties, and responsibilities as provided by the Louisiana Constitution or by law, but shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees; however, in accordance with law, the board shall have the power to supervise, manage, and operate or provide for the supervision, management, and operation of a public elementary or secondary school which has been determined to be failing, including the power to receive, control, and expend state funds appropriated and allocated pursuant to Louisiana Constitution, Article VIII, §13, any local contribution required by Article VIII, §13, and any other local revenue available to a school board with responsibility for a school determined to be failing in amounts that are calculated based on the number of students in attendance in such a school, all in the manner provided by and in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §303. Membership and Terms

A. The board shall consist of 11 members. One member shall be a resident of and shall be elected by the electors of each of the BESE districts. With consent of the senate, three members shall be appointed by the governor from the state at large. Members shall serve terms of four years, which shall be concurrent with the term of the governor. Members shall serve until their successors are selected and take office.

B. A vacancy in the office of an elected member, if the remaining portion of the term is more than one year, shall be filled for the remainder of the term by election, as provided by law. Other vacancies shall be filled for the remainder of the term by appointment by the governor.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 3; R.S. 17:1; and R.S. 17:2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §305. Election of Officers and Their Duties

A. The board shall elect a president, a vice-president, and a secretary-treasurer from its membership whose terms of office are fixed by the board, not to exceed one year. These officers shall assume their duties at the board meeting immediately following their election.

B. The president shall conduct board meetings and perform duties designated by the board or by statute. The president shall sign, on behalf of the board, contracts, agreements, and/or official documents approved by the board. The president is authorized to make ad hoc decisions for the board in emergency situations when the board is not in regular or special session and where policies and statutes are silent. However, any such decisions, which constitute an obligation, official position, or action of the board, are subject to ratification by the board at the next scheduled meeting. The president shall appoint members of standing and special committees of the board.

C. The vice-president shall preside at board meetings in the absence of or at the request of the president and shall perform any other duties specifically assigned by the board and any other such duties as requested by the president.

D. The secretary-treasurer shall preside at board meetings in the absence of both the president and the vice-president and shall perform any other duties specifically assigned by the board and any other duties as requested by the president.

E. The state superintendent shall serve as ex officio secretary of the board. As ex officio secretary, he/she shall have powers and functions assigned by the board, among which shall be the authority with the president of the board, to authenticate and verify official documents of the board and to submit agenda items for consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3 and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

### **§307. General Powers and Duties**

A. The board exercises its supervision and control over the public elementary and secondary schools and special schools under its jurisdiction, and exercises its budgetary responsibility for all funds appropriated or allocated by the state for public elementary, secondary, and special schools placed under its jurisdiction, through general powers and duties that shall include, but not be limited to, the following.

1. Adopt a minimum foundation program and adopt a formula for the equitable allocation of minimum foundation funds to city, parish, or other local public school systems. The board shall adopt such program and formula for each ensuing fiscal year in a timely manner so that the program and formula may be submitted to the Joint Legislative Committee on the Budget in accordance with R.S. 17:22(2)(d).

2. Exercise budgetary responsibility and allocate for expenditure by the schools and programs under its jurisdiction all monies appropriated or otherwise made available for purposes of the board and of such schools and programs.

3. Supervise, manage, and operate or provide for the supervision, management, and operation of a public elementary or secondary school which has been determined to be failing, including the power to receive, control, and expend state funds appropriated and allocated pursuant to La. Const. art. VIII, sec. 13(B), any local contribution required by La. Const. art. VIII, sec. 13, and any other local revenue available to a school board with responsibility for a school determined to be failing in amounts that are calculated based on the number of students in attendance in such a school, all in the manner provided by and in accordance with law.

4. Approve the administration of the Special School District and the Recovery School District by the department.

5. Approve budgets of the department, including the Special School District and Recovery School District, and all entities under the jurisdiction the board, including the BESE Special Schools, as provided herein.

6. Prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law.

7. Adopt or approve courses of study and rules, by-laws, and regulations for the discipline of students and for the governance of the public elementary and secondary schools and other public schools and programs under its

jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, or other local public school boards and the city, parish, or other local public school superintendents.

8. Prescribe the qualifications and provide for the certification of teachers in accordance with applicable law, which qualifications and requirements shall be such as to insure that certification shall be a reliable indicator of the minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

9. Adopt minimum standards for the approval of each public elementary and secondary school and special school in the state under its jurisdiction.

10. Except as otherwise provided by law, approve private schools in accordance with the provisions of R.S. 17:10 and other applicable laws.

11. Exercise supervision and control over the state's special schools: the Louisiana School for the Visually Impaired, the Louisiana School for the Deaf, and the Louisiana Special Education Center.

12. Exercise approval authority over the administration of the Special School District by the department pursuant to law.

13. Issue diplomas for successful completion of programs of study.

14. Exercise approval authority over the administration of the Recovery School District by the department pursuant to law.

15. Authorize the operation of Type 2, Type 4, and Type 5 charter schools and provide oversight through the department of Type 2, Type 4, and Type 5 charter schools.

a. Review each proposed charter in a timely manner and determine whether each proposed charter complies with the law and rules and whether the proposal is valid, complete, financially well-structured, educationally sound, and whether it offers potential for fulfilling the purposes of the charter school law.

b. Enter into any proposed charter that complies with the Charter School Law and policy upon a determination that the charter is a valid, complete, financially well-structured, and educationally sound proposal that offers potential for fulfilling the purposes of the charter school law.

c. Determine the policy and provide direction to the department for providing the oversight of the operation of charter schools chartered with the board.

16. Adopt, amend, or repeal rules, regulations, and policies necessary or proper for the conduct of the business of the board.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII § 8, R.S. 17:6(A), R.S. 17:7(2)(a), R.S. 17:7(3), R.S. 17:7(4), R.S. 17:7(5), R.S. 17:7(6) (a) (i), R.S. 17:7(7), R.S. 17:7(8), R.S. 17:4.1, R.S. 17:43, R.S. 17:348, R.S. 17:1951, R.S. 17:6(A)(10), R.S. 17:6(A)(11), R.S. 17:10.5, R.S. 17:1951, R.S. 17:1990 and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008).

### **§309. State Superintendent**

#### **A. Appointment**

1. The state superintendent shall be appointed by a two-thirds vote of the total membership of the board, subject to confirmation by the senate.

2. The board shall enter into a contract with the state superintendent that delineates the terms and conditions of employment. The length of the contract shall be determined by the board but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the state superintendent may serve until the succeeding board has made an appointment.

3. Any vacancy in the office of the state superintendent which occurs prior to the expiration of the term of his/her contract shall be filled for the remainder of the unexpired term by the method of appointment provided herein.

4. The board shall delegate to the state superintendent such of its powers and duties as it deems appropriate to aid the state superintendent in the efficient administration of his/her responsibility for the implementation of the policies of the board.

B. Qualifications. The state superintendent shall possess the following qualifications.

1. General:

- a. advanced degree in public administration, education, or related area;
- b. background in the formulation and implementation of public policy; and
- c. strong academic background.

2. Experience:

- a. proven record of success in administration;
- b. demonstrated ability to achieve positive results;
- c. credibility in his/her current profession; and
- d. proven record of team building.

3. Professional skills:

- a. proven decision-making skills;
- b. proven leadership skills;
- c. ability to work effectively with the legislature and executive branches of the government, education, business, and civic organizations; and
- d. outstanding interpersonal and communication skills.

C. Compensation. The annual salary of the state superintendent shall be set by the board subject to the approval of the Joint Legislative Committee on the Budget.

D. General Authority

1. The state superintendent shall execute and implement those educational policies and programs which are under the supervision and control of the board and shall serve as the administrative head of the department.

2. The state superintendent shall have such other powers, functions, duties, and responsibilities as may be provided by law, regulation, and policy.

3. The state superintendent shall administer the Recovery School District, an intermediate education unit within the department, pursuant to R.S. 17:1990. As the administrative head of the department, the state superintendent is the appointing authority for the Recovery School District, except as provided herein.

4. The state superintendent shall administer the Special School District, an educational service agency within the department, pursuant to R.S. 17:1951. As the administrative head of the department, the state superintendent is the appointing authority for the Special School District, except as provided herein.

5. The state superintendent shall supervise and oversee the administration of the BESE Special Schools. The state superintendent shall be the appointing authority for the BESE Special Schools, except as provided herein. The state superintendent shall have budgetary responsibilities over the BESE Special Schools.

6. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her herein as to the BESE Special Schools and by law as to the Special School District to directors of the BESE Special Schools and the Special School District State Director, respectively. The state superintendent may delegate operational authority conferred upon him/her herein as to the BESE Special Schools and administrative authority conferred upon him/her by law as to the Special School District to the Special School District State Director, subject to any restrictions provided by law.

7. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her by law as to the Recovery School District to the Recovery School District superintendent. The state superintendent may delegate administrative authority conferred upon him/her by law as to the Recovery School District to the Recovery School District superintendent, subject to any restrictions provided by law, rule, or policy.

E. Duties

1. The state superintendent shall establish such divisions within the department as are necessary or appropriate to carry out the functions vested by or under authority of the constitution and laws.

2. The state superintendent shall have budgetary responsibility for all funds appropriated or allocated by the state for the day-to-day operations and for the functions of the department, which are not inconsistent with the functions of the board.

3. The state superintendent, as the administrative head of the department, shall oversee the administration and distribution of all federal funds received for the benefit of those phases of education under the jurisdiction of the board, in accordance with policies adopted by the board.

4. The state superintendent may review the responsibilities of the department and prepare a plan to restructure and reorganize the department subject to the approval of the board and in accordance with Chapter 15 of Title 36 of the Louisiana Revised Statutes.

5. The state superintendent shall provide staff services within the department that are needed by the board to carry out its constitutional and statutory mandates.

6. The state superintendent shall exercise his/her responsibilities for personnel appointments in the following manner.

a. The state superintendent, with the consent of the board, may establish or abolish positions that direct the divisions of the department.

b. The state superintendent shall make appointments to senior departmental positions. Senior departmental positions are unclassified positions that compose the superintendent's cabinet and any other senior unclassified position so designated by the state superintendent. Unless otherwise provided herein or in other administrative manuals approved by the board, employees



holding such positions shall serve at the pleasure of the state superintendent, in accordance with the law.

c. The state superintendent shall appoint the Recovery School District superintendent with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the Recovery School District superintendent will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

d. The appointment and termination of the position of director of a BESE Special School and the Special School District State Director shall be governed by the *Personnel and Administrative Manual of the Special School District and Board of Elementary and Secondary Education (BESE) Special Schools*.

e. The state superintendent shall employ/appoint and fix the salaries and duties of employees of the department, including the Special School District and the Recovery School District, subject to applicable Civil Service laws, rules, and regulations, and other applicable laws, rules, regulations, and policies.

f. The state superintendent shall employ/appoint and fix the salaries and duties of employees of the BESE Special Schools, subject to applicable Civil Service laws, rules, and regulations, and other applicable laws, rules, regulations, and policies.

g. The selection of appointees to all unclassified positions shall be based on professional, technical, and/or clerical qualifications appropriate to each position.

h. No person shall, on the basis of race, color, religion, sex, age, national origin, handicap, veteran status, or any other non-merit factor, be discriminated against in any employment practice.

i. A monthly report on all new appointments and terminations shall be provided to members of the board.

j. In addition to the above, the state superintendent shall exercise his/her responsibilities for personnel matters in accordance with the constitution and laws of the state.

7. The state superintendent's responsibilities with respect to local education agencies shall include, but not be limited to:

a. Pursuant to the rules, regulations, and policies adopted by the board, the state superintendent shall offer assistance to local public school officials and the elementary and secondary schools of the state in their efforts to adopt procedures by which:

i. courses of study prescribed by the board will be followed:

ii. teachers will meet the standards prescribed by the board; and

iii. schools will meet the standards for approval, which are prescribed by law or by the board.

b. The state superintendent shall assist the local education agencies and teachers in securing the best possible results from their efforts.

c. The state superintendent shall prescribe the manner and substance of classifications for program cost accounting to be used by local education agencies in the preparation and adoption of annual budgets.

d. The state superintendent shall receive the annual budget of each local education agency and may require the local education agency to operate the schools within the receipts normally expected and set up in the school system budget. This shall include the right to advise school boards participating in the state equalization fund in all matters relating to the preparation and adoption of their budgets and the right to require change when it is clearly evident that the budget fails to comply with the intent and purpose of the state equalization fund.

e. The state superintendent shall receive the annual financial report submitted by local education agencies, as required by law, regulation, or policy.

f. The state superintendent shall identify local school systems as being "academically in crisis" and notify appropriate officials, as provided by law.

8. The state superintendent shall make recommendations to the board for the approval of Type 5 charter schools, subject to the policies and processes approved by the board.

9. The state superintendent shall periodically inform the board of areas in which policy development is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:21(C), R.S. 17:23(B), R.S. 17:6(B), R.S. 17:21(B), R.S. 17:21(D), R.S. 17:21(A), R.S. 17:1990, R.S. 17:1951, R.S. 17:24(A), R.S. 17:24(B), R.S. 17:24(C), R.S. 17:24(D), R.S. 17:22(2)(f), R.S. 36:645, R.S. 17:22(6), R.S. 17:88(B), R.S. 17:88(D), R.S. 17:92, R.S. 17:10.6(A)(2) and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008).

### **§311. The BESE Special Schools and the Special School District**

A. Functions of the BESE Special Schools and the Special School District

#### **1. BESE Special Schools**

a. The BESE Special Schools (Louisiana School for the Deaf, Louisiana School for the Visually Impaired, and Louisiana Special Education Center) are state-operated schools providing educational programs and services for residential and/or day students. The BESE Special Schools are established to provide a free appropriate public education for children with low incidence disabilities who meet the admission criteria (i.e., deaf, blind, orthopedically impaired) for each such special school and who are enrolled in such special school.

#### **2. Special School District**

a. The Special School District is an educational service agency administered by the department with the approval of the board. The district provides educational services to students enrolled in state approved programs in non-traditional settings such as those provided by the Office of Citizens with Developmental Disabilities, the Office of Mental Health, the Office of Youth Development, and the Department of Public Safety and Corrections.

#### **B. Organization and Administration**

1. The board delegates to the state superintendent the supervision of the administration of the BESE Special Schools according to policies prescribed by the board. The board shall oversee the administration of the Special School District, with such administration subject to board approval through the policies it prescribes.

2. The overall administrative organization of the Special School District and the BESE Special Schools consists of a governing board, which is the Board of Elementary and Secondary Education, and a chief state school officer who is the State Superintendent of Education, a Special School District State Director, and the BESE Special School directors.

3. The Special School District shall be administered by a state director, who shall report to the state superintendent. The authority, responsibilities, and duties of the state director shall be prescribed by board policy.

4. Each BESE Special School shall be administered by a director, who shall report to the state superintendent and, if authorized by the state superintendent, to the Special School District State Director. The authority, responsibilities, and duties of the directors of the BESE Special Schools shall be prescribed by board policy.

### C. School and District Policies and Procedures

1. Policies and procedures adopted by BESE for the governance of the BESE Special Schools and the Special School District are set forth in the *Personnel and Administrative Manual of the Special School District and the Board of Elementary and Secondary Education (BESE) Special Schools*. Other regulations approved by BESE are applicable where appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:4.1, R.S. 17:1951, and R.S. 17:6(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008).

## §313. The Recovery School District

A. Functions and Jurisdiction of the Recovery School District

1. The Recovery School District is established as an intermediate educational unit administered by the department, subject to the approval of the board, to provide an appropriate education for children attending any public elementary or secondary school operated under the jurisdiction and direction of any city, parish, or other local public school board or any other public entity, which has been transferred to its jurisdiction pursuant to R.S. 17:10.5 or 10.7.

a. Public Schools Transferred Pursuant to R.S. 17:10.5

i. Pursuant to R.S. 17:10.5, a public school identified as academically unacceptable under the board's uniform statewide program of school accountability is designated as a failed school and may be transferred, with the approval of the board, to the Recovery School District when a city, parish, or other local public school board or other public entity:

(a). fails to present a plan to the board to reconstitute a failed school, as required pursuant to the uniform statewide program of school accountability; or

(b). presents a reconstitution plan that is unacceptable to the board; or

(c). fails at any time to comply with the terms of the reconstitution plan approved by the board; or

(d). the school has been labeled an academically unacceptable school for four consecutive years.

ii. The Recovery School District shall retain jurisdiction over any school transferred pursuant to R.S. 17:10.5 until the board, upon the recommendation of the department, enters into an agreement with the city, parish, or

other local public school board or any other public entity from which the school was transferred for its return to the jurisdiction of such school board or public entity. When a school in the Recovery School District is no longer academically unacceptable, the board shall require the department to seek agreement for the return of the school. Such agreement shall include all of the following.

(a). Details for the operation of the school by the city, parish, or other local public school board or any other public entity, including provisions for the continuation of the programs that have provided the basis for the academic achievement by the students.

(b). Provisions providing for the employment status of all persons employed by the district or the operator of the school who were not employed by the prior system at the time the school was transferred to the jurisdiction of the district.

(c). Provisions for the means and timetable for the school's transition and return to the jurisdiction of the school board or other public entity.

iii. When a school transferred to the jurisdiction of the Recovery School District has been operating for four years pursuant to arrangements established by the Recovery School District, and has failed to improve sufficiently to no longer be academically unacceptable, the board shall take any one of the following actions:

(a). revoke all school approval;

(b). require the Recovery School District to terminate the operational arrangement and provide a different operational arrangement;

(c). return the school to the jurisdiction of the city, parish, or other local public school board or other public entity from which it was transferred.

iv. A school transferred to the jurisdiction of the Recovery School District may remain under its jurisdiction if it continues to be labeled as academically unacceptable if the performance of the school as measured by a school performance score pursuant to the statewide program of school accountability has improved by at least 20 points during the initial and subsequent four-year periods.

v. The Recovery School District shall have the right to use any school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the schools prior to its placement in the Recovery School District and shall have access to such additional facilities as are typically available to the school, its students, and faculty and staff prior to its placement in the Recovery School District. Such use shall be unrestricted, except that the Recovery School District shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property are maintained in as good an order as when the right of use was acquired by the district. There shall be no requirement for the Recovery School District to provide for the type of extensive repair to buildings or facilities that would be considered to be a capital expense. Such extensive repairs shall be provided by the governing authority of the city, parish, or other local public school system or other public entity which is responsible for the facility.

b. Public Schools Transferred Pursuant to R.S. 17:10.7

i. Pursuant to R.S. 17:10.7, each elementary and secondary school that has a baseline school performance score below the state average and that is a school in or granted by a city, parish, or other local public school system that has been declared to be academically in crisis pursuant to R.S. 17:10.6, and has at least one school eligible to transfer to the Recovery School District pursuant to R.S. 17:10.5, shall be designated a failing school and shall be transferred to the jurisdiction of the Recovery School District.

ii. No additional schools shall be transferred to the Recovery School District pursuant to R.S. 17:10.7 on or after November 15, 2008.

iii. The Recovery School District shall retain jurisdiction over any school transferred to it pursuant to R.S. 17:10.7 for a period of not less than five school years not including the school year in which the transfer occurred if the transfer occurred during a school year.

(a). The Recovery School District shall make a report to the board no later than nine months prior to the expiration of the five-year period.

(b). The report shall include at a minimum each of the following elements:

(i). the status of each school transferred, the nature of its faculty and administration, the demographics and size of its student body, its organizational and management structure, whether there has been improvement in student academic performance and, if so, how much and, if not, why not;

(ii). a recommendation as to whether the school should be:

[a]. continued in the Recovery School District pursuant to its reported operational status;

[b]. continued in the Recovery School District with a change in its operational status and the nature of the recommended change;

[c]. closed and the reasons therefor;

[d]. returned to the administration and management of the transferring system with proposed stipulations and conditions for the return.

(c). The board shall take action on the recommendations of the Recovery School District no later than six months prior to the expiration of the five-year period. Any action that results in an affirmative agreement to maintain the school in the Recovery School District shall retain the school in the district for an additional five-year period, unless a lesser time is adopted by the board.

iv. The Recovery School District may, at the discretion of the department, acquire with the transfer of the schools all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, except that the Recovery School District may not transfer the ownership of the land or usable buildings constructed on the land to another, except as provided by law, save returning the land and such buildings to the stewardship of the prior system. The district may lease land or property, dispose of property other than the land as is necessary to properly manage the operation of the schools, rebuild school buildings, or renovate school buildings.

#### B. Authority of the Recovery School District

1. The Recovery School District shall have the authority to operate a school transferred to its jurisdiction in whatever manner is determined by the department to be most likely to bring the school to an acceptable level of performance as determined pursuant to the state accountability plan as provided by law and policy.

2. The Recovery School District shall have jurisdiction over Type 5 charter schools as provided by law and policy, including but not limited to the RSD Bulletin and the Charter School Bulletin.

3. The Recovery School District, as an intermediate educational unit, shall have the authority to seek, expend, manage, and retain federal funding and grant funding and to otherwise seek, obtain, expend, manage, and retain funding with all the same authority of any city, parish, or other local public school board or other public entity operating a public school, including the right to maintain and manage fund balances as provided by law and policy.

4. The Recovery School District shall have the authority to supervise, manage, and operate or to provide for the supervision, management, and operation of a school placed under its jurisdiction and to receive, control, and expend the local, state, and federal funding attributable to that school, with all the same power and authority as the prior system from which it was transferred subject to the requirements of R.S. 17:1990, 17:10.5 or 17:10.7, or with any other power and authority otherwise granted to the district as provided by law and policy.

5. The Recovery School District, in the exercise of its option to acquire the rights and responsibilities of ownership of schools transferred to its jurisdiction pursuant to R.S. 17:10.7, shall, through the department, be the exclusive authority to receive, manage, and expend any and all state, local, or federal funding dedicated to or available for the purpose of repairing, renovating, or rebuilding, or building a school building or facility, and any and all insurance proceeds attributable to damage done to any property, except that portion of such insurance proceeds used to pay debt owed by the prior system as provided by law and policy. A portion of all revenues available to the prior system which are dedicated to the repair, maintenance, or capital projects regarding a transferred school whether such revenue is available from tax proceeds, was borrowed, bonded, or was otherwise acquired shall be transferred by the system to the Recovery School District in an amount equal to the proportion that the number of schools transferred from such school system bears to the total number of schools operated by the school system during the school year immediately preceding the school year in which the transfer occurred as provided by law and policy.

#### C. Organization and Administration of the Recovery School District

1. The Recovery School District shall be administered by the department, subject to the approval of the board.

2. The board shall oversee the administration of the Recovery School District, with such administration subject to board approval through the policies it prescribes.

3. The overall administrative organization of the Recovery School District consists of the board in the

exercise of its approval over the administration of the Recovery School District, the state superintendent acting as the Recovery School District's governing authority consistent with authority delegated by the board and statutory authority acknowledged by the board, and a superintendent of the Recovery School District.

4. The Recovery School District shall be administered by a superintendent, who shall report to the state superintendent. The responsibilities and duties of the Recovery School District superintendent shall be prescribed by the state superintendent.

D. Policies and Procedures for the Recovery School District

1. Policies for the board's administrative oversight of the Recovery School District shall be adopted by BESE and set forth in the *Recovery School District Bulletin*. Administrative oversight shall include, but not be limited to, policy governing activities that will ensure the purpose and functions of the Recovery School District are being achieved, fiscal responsibilities are being met, community involvement is sought, property is managed and developed under uniform and established guidelines, student progress is measured and corrective action is taken, when necessary, district progress is measured in all essential areas and corrective action is taken, when necessary, reporting and planning measures are defined, compliance with law and board policy exists, charter school oversight exists, and the Recovery School District Plan is being fulfilled.

2. Procedures for the operation of the schools within the Recovery School District addressing the day-to-day operation of schools by the Recovery School District shall be adopted by the state superintendent and set forth in the *Recovery School District Handbook* and supplements thereto. The state superintendent shall report on such procedures adopted, as required by the board. The board shall have the authority to review and provide guidance on procedures adopted by the superintendent and shall have the authority to direct the amendment of a procedure the board determines is in violation of law or policy. Operational procedures shall include, but not be limited to, instructional program; human resource and employment policies; rules governing student conduct, rights, and responsibilities; fiscal management; business management; school facility use and maintenance; district and student records; public and educational agency relations; and any procedure required by the RSD Bulletin.

3. The Recovery School District shall be subject to a *BESE Charter School Bulletin* to the extent that it is applicable to the charter schools under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(B), R.S. 17:10.5, R.S. 17:10.6, R.S. 17:1990, R.S. 17:3973 and R.S. 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008).

### **§315. Board Staff**

A. The board shall employ staff to discharge the constitutional and statutory functions of the board as policymaker for elementary and secondary education.

B. The executive director shall be selected and appointed by the board and shall serve as the agency head responsible for all administrative and fiscal operations of the board.

C. The executive director shall appoint unclassified administrative staff and submit such appointments to the board for ratification.

D. Classified staff are hired by the executive director in accordance with procedures approved by the Louisiana Department of Civil Service.

E. In general, duties of the staff include the following:

1. provide professional staffing functions for all standing/special committees of the board, including the appellate functions related to the quasi-judicial actions of the board acting as the administrative agency of last resort prior to regular judicial proceedings;

2. assist in the policymaking functions; the formulation and maintenance of regulating bulletins and rules;

3. answer inquiries (verbal and written) from and for board members;

4. provide staffing services to advisory councils appointed by the board and educational commissions established by the legislature. The board staff shall serve as secretariat to the advisory councils of the board. Secretarial services shall include the preparation of agenda and minutes, both of which shall be prepared according to regular office procedures of the board. The executive director shall supply each advisory council with a staff person who shall serve as an aide to the chair of the council and serve as a representative of the executive director for the purpose of coordinating activities of the advisory councils and the standing and special committees of the board;

5. provide necessary support services for BESE in its joint functions with the Board of Regents;

6. staff all board meetings and maintain official records and notifications of board action;

7. provide oversight for the distribution and monitoring of 8(g) funded programs;

8. develop charter school policy and monitor the department's implementation of policy and its oversight of the charter schools authorized by BESE;

9. testify at legislative hearings, as appropriate; and

10. provide any additional support services deemed necessary for the board to perform its constitutional and statutory duties.

F. Staff assistance from employees of the department may be secured for advisory councils only at the direction of the State Superintendent of Education.

G. All persons subject to the jurisdiction of the board who sign checks shall be bonded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(15), R.S. 17:6(A)(10), R.S. 17:3(D), Article VII § 10.1, R.S. 17:3801, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008).

## **Chapter 5. Organization**

### **§501. Standing and Special Committees**

A. As a means of assisting the board in the exercise of its powers and responsibilities as defined in the constitution and by law, standing and special committees are created.

B. Standing committees, composed of not less than three members of the board and appointed by the president, are:

1. 8(g) Committee. Charge: to allocate funds to any or all constitutional categories to enhance elementary and secondary education; to consider all administrative matters of the 8(g) program; to establish expectations of academic excellence and require accountability of performance; and to organize issues-related information to guide board decisions.

2. Accountability and Assessment Committee. Charge: to consider all matters relating to student, school, and district accountability; to consider all student assessment issues; to determine necessary student and school level interventions based on assessment results of mandated testing; to coordinate resources for school improvement; to monitor the performance of students and schools; to align the school approval process with the accountability system; to provide for remediation related to high stakes testing; and to organize issues-related information to guide board decisions.

3. Board Administration/Relations Committee. Charge: to improve the credibility and visibility of the board and communicate the problems and needs of education through activities of the board and the state superintendent, department, and Regional Service Centers; to consider routine administrative matters of the board; to administer the state superintendent's evaluation; to receive updates on the benefits of any department reorganization; to consider issues impacting the BESE Special Schools, the Special School District, and the Recovery School District; to develop policies and procedures for charter school authorizing; to administer loan fund activities of charter schools; and to organize issues-related information to guide board decisions.

4. Finance/Audit Review Committee. Charge: to provide for a budget process; to annually develop and adopt a formula to equitably allocate education funds to parish, city, and community school systems; to formally review operational plans developed by BESE, LDE, the BESE Special Schools, the Special School District, and the Recovery School District prior to submission to the Office of Planning and Budget; to approve grant allocations; to grant budget approval for the LDE, BESE, the BESE Special Schools, the Special School District, and the Recovery School District; to review and approve all contracts and leases with agencies under its jurisdiction; to review and address audit reports and plans to correct irregularities; to consider payment of invoices submitted for approval; and to organize issues-related information to guide board decisions.

5. Legal/Due Process Committee. Charge: to consider legal issues and matters of litigation; to serve as an "administrative court of last resort" prior to adjudication in the judicial court system (usually revocation/reinstatement of teaching certificates and removal or disciplinary actions involving tenured teachers of the BESE Special Schools and the Special School District); and to organize issues-related information to guide board decisions.

6. Legislative/Policy Oversight Committee. Charge: to study the impact of current and proposed state and federal legislation; to identify the board's role in new legislation; to develop position statements and/or white papers on education-related legislation pending before the legislature and to develop committee/floor strategies for proposed legislation; to draft legislative education reform recommendations; and to organize issues-related information to guide board decisions.

7. Quality Educators Committee. Charge: to establish teacher certification standards, including course studies and teacher licensing tests; to consider waivers and/or appeals to standards in special circumstances; to provide for teacher evaluation and assistance, including mentoring; to provide for professional development and leadership development

designed to improve teaching and learning; to review the impact of professional development activities on teaching and learning; to coordinate activities of the Louisiana Center for Educational Technology; to coordinate partnerships between secondary and post-secondary institutions; to approve teacher preparation units; and to organize issues-related information to guide board decisions.

8. Student and School Standards/Instruction Committee. Charge: to consider all matters relative to school and student standards; to set standards for high school graduation options; to establish Grade Level Expectations and Comprehensive Curricula aligned with the state content standards; to provide for the education needs of special populations; to provide for adequate textbooks and materials of instruction; to consider issues related to the Workforce Investment Act; to build an articulated framework from K-16; to consider school support matters such as Early Childhood, nutrition and transportation services, parental involvement, community-based learning, school safety, migrant education, child welfare and attendance; to make recommendations for community support in the area of adult/parental education and training; to approve nonpublic schools in compliance with *Brunfield v. Dodd*; and to organize issues-related information to guide board decisions.

C. Special Committees. The board may establish short-term committees with a specified focus area to study selected strategic initiatives. Each special committee shall be terminated when the purpose for which it was created has been considered and finally acted upon by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008).

### **§503. Advisory Councils**

A. Functions. In general, the function of an advisory council is to advise the board, directly or through its standing and special committees, in the discharge of its policymaking, supervisory control, and budgetary duties and responsibilities. Specific functions of an advisory council are determined by the creating law or policy. Advisory councils deal exclusively with matters referred to them by the board. Matters referred to advisory councils are those that require external input regarding funding decisions, policy matters that need to be reviewed for local impact, bulletin revisions containing policies or supervisory controls, and matters particular to a council for which it was created. Department staff provides the board with a statewide and nationwide perspective on certain issues, while advisory councils respond from a local or community perspective.

B. Composition. Unless otherwise provided by state or federal law, each advisory council of the board is created by board policy. The policy determines the size of the council membership; the number of persons to be appointed by the board; the persons, organizations, affiliations, or interest groups to be represented on a council; and the length of terms. Unless required by law, no member of the board is a member of an advisory council.

C. Creation. The following advisory councils are created.

1. 8(g) Advisory Council

a. Authority: per BESE policy.

b. Membership: 16 members as follows.

i. Eleven members, one member recommended by each BESE member from the following categories:

- (a). one representative of a business partner in education;
- (b). one LEA grant administrator;
- (c). one elementary principal;
- (d). one secondary principal;
- (e). one representative of a nonpublic school system;
- (f). one representative of a public charter school;
- (g). one LEA supervisor;
- (h). one teacher, grades PreK-6;
- (i). one teacher, grades 7-12;
- (j). one LEA superintendent; and
- (k). one 8(g) evaluator.
- ii. Louisiana PTA President; and
- iii. two ex officio members from the legislature, recommended by the senate president, from the following categories:
  - (a). chair or member of the Senate Committee on Education; and
  - (b). chair or member of the Senate Committee on Finance;
  - iv. two ex officio members from the legislature, recommended by the Speaker of the House, from the following categories:
    - (a). chair or member of the House Committee on Education; and
    - (b). chair or member of the House Committee on Appropriations.
- c. Referrals/Responsibilities
  - i. Make recommendations with respect to the board's annual establishment of priorities.
  - ii. Make recommendations concerning any Louisiana Quality Education Support Fund policies, procedures, and/or activities.
  - iii. Participate in any public hearing conducted by the board relative to the Louisiana Quality Education Support Fund.
  - iv. Consider all matters referred by the board.
- 2. Adult Education Advisory Council
  - a. Authority: per BESE policy.
  - b. Membership: 11 members, one member recommended by each BESE member.
  - c. Referrals/Responsibilities
    - i. Review and comment on the department's recommendations for disbursement of grants and awards to local education agencies and qualified nonprofit entities.
    - ii. Make recommendations concerning the State Plan for Adult Education.
    - iii. Consider all matters referred by the board.
- 3. Louisiana Educational Assessment Testing Commission
  - a. Authority: per state statute (R.S. 17:24.4).
  - b. Membership: 16 members, provided by law as follows. Each member of the commission shall serve a four-year term, except that the member appointed by the governor shall serve a term concurrent with the governor. A member may be reappointed:
    - i. one certified teacher appointed by the Louisiana Association of Educators;
    - ii. one certified teacher appointed by the Louisiana Federation of Teachers;

- iii. one certified teacher appointed by the Louisiana Association of School Executives;
- iv. one certified teacher appointed by the Associated Professional Educators of Louisiana;
- v. one superintendent appointed by the Louisiana Association of School Superintendents;
- vi. one principal appointed by the Louisiana Association of Principals;
- vii. one school board member appointed by the Louisiana School Boards Association;
- viii. one member of the Board of Elementary and Secondary Education, or designee, appointed by that board;
- ix. one member of the Board of Regents, or designee, appointed by that board;
- x. chair of the House Committee on Education, or designee, appointed by the Speaker of the House;
- xi. chair of the Senate Committee on Education, or designee, appointed by the Senate President;
- xii. one member appointed by the governor;
- xiii. one member of the Department of Education's professional staff appointed by the state superintendent;
- xiv. one parent of a child in a public school appointed by the Louisiana Parent-Teacher Association;
- xv. one citizen, interested in education, appointed by the Board of Elementary and Secondary Education; and
- xvi. one dean of a college of education from a state college or university, appointed by the Board of Elementary and Secondary Education [President of the Louisiana Association of Colleges of Teacher Education (LACTE)].
- c. Referrals/Responsibilities
  - i. Study elementary and secondary education testing issues, indicators of student performance, and the results thereof.
  - ii. Serve in an advisory capacity to the board and recommend procedures for conducting, maintaining, and reporting reliable accountability measures of student performance.
  - iii. Consider all matters referred by the board.
- 4. Nonpublic School Commission
  - a. Authority: per state statute (R.S. 17:11).
  - b. Membership: 11 members, one member recommended by each board member, representing approved nonpublic schools.
  - c. Referrals/Responsibilities
    - i. Advise and counsel with the board relative to standards and guidelines affecting nonpublic schools.
    - ii. Consider all matters referred by the board.
- 5. Parish Superintendents' Advisory Council
  - a. Authority: per BESE policy.
  - b. Membership: 22 members as follows:
    - i. 22 members, two parish superintendents recommended by each of the eight elected board members, within his/her district, if possible. The three at-large members should each appoint two parish superintendents from BESE Districts 3-8, with no more than one appointment per BESE district. It is recommended that the composition reflect all sizes of systems and be equitable in the regions represented, to the extent possible;
    - ii. the president of the Louisiana Association of School Superintendents (LASS) shall serve as chair of the council. In the event the president of LASS is not an

appointed member of the council, the membership shall expand to 23 members during the term of service of that individual;

iii. attendance. Members who cannot attend a meeting may appoint another superintendent from his/her BESE district to represent him/her, and the proxy shall have the same voting privileges;

iv. expenses. Members shall not receive reimbursement for travel expenses from the board.

c. Referrals/Responsibilities

i. Consider all matters referred by the board.

ii. Recommendations from the Parish Superintendents' Advisory Council shall go to the appropriate board committee. The department shall provide responses to the various recommendations.

6. Special Education Advisory Council

a. Authority. Pursuant to federal law and regulations (34 CFR 300.650-652) and to state law (R.S. 17:1954), the Special Education Advisory Council is created to assist the board in its programmatic and budgetary responsibilities for special education programs.

b. Membership: 17 members as follows. A majority of the voting members of the panel (nine) shall be individuals with disabilities or parents of children with disabilities, ages birth through 26. The advisory council shall be representative of the state population and composed of individuals involved in, or concerned with, the education of children with disabilities:

i. 11 members, one member recommended by each board member, from the following categories:

(a). two parents of children with disabilities (ages birth through 26);

(b). one individual with a disability;

(c). one special education teacher;

(d). one regular education teacher;

(e). two representatives of institutions of higher education that prepare special education and related services personnel;

(f). one local education official;

(g). one administrator of a program for children with disabilities;

(h). one representative of a private school;

(i) one representative of a public charter school;

ii. one representative of a state agency involved in the financing or delivery of related services to children with disabilities, recommended by the Department of Health and Hospitals;

iii. one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities, recommended by Louisiana Rehabilitation Services;

iv. one administrator of a program for children with disabilities, recommended by a USDOE designated Parent Training and Information Center;

v. one representative from the state juvenile/adult corrections agencies, recommended by the Department of Public Safety/Corrections;

vi. one state or local education official who carries out activities of the McKinney-Vento Homeless Assistance Act, recommended by the Louisiana State Superintendent of Education;

vii. one representative from the state child welfare agency responsible for foster care, recommended by the Department of Social Services.

c. Referrals/Responsibilities

i. Advise the state educational agency of unmet needs within the state in the education of children with disabilities.

ii. Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities.

iii. Advise the state educational agency in developing evaluations and reporting on data to the U.S. Secretary of Education.

iv. Advise the state educational agency in developing corrective action plans to address findings identified in federal monitoring reports.

v. Advise the state educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

vi. Review and comment on the department's recommendations for disbursement of competitive grants and awards to local education agencies and qualified nonprofit entities; and

vii. Consider all matters referred by the board.

7. Teacher Certification Appeals Council

a. Authority: per BESE policy.

b. Membership: nine members representing the following categories and organizations:

i. three college of education faculty, recommended by the Louisiana Association of Colleges for Teacher Education (LACTE):

(a). at least one must represent a nonpublic university; and

(b). at least one must represent a university participating in a Practitioner Teacher Program;

ii. three classroom teachers, one recommended by each of the following organizations:

(a). Associated Professional Educators of Louisiana (APEL);

(b). Louisiana Association of Educators (LAE); and

(c). Louisiana Federation of Teachers (LFT);

iii. three local education administrators, one recommended by each of the following organizations:

(a). Louisiana Association of Principals (LAP);

(b). Louisiana State Association of School Personnel Administrators (LSASPA); and

(c). Louisiana School Supervisors' Association (LSSA).

c. Referrals/Responsibilities

i. Evaluate the appeals of persons seeking Louisiana certification under the standards contained in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, including appeals documents and transcripts of appellants.

ii. Submit a written record of its findings and recommendations to the Quality Educators Committee, composed of board members, for its review and recommendation to the board.

iii. The council shall not consider appeals of persons who are non-degreed, and/or lack the required

NTE/PRAXIS scores, and/or requests to waive state statutes pertaining to certification.

iv. Consider all matters referred by the board.

8. Textbook/Media/Library Advisory Council

a. Authority: per BESE policy.

b. Membership: 14 members as follows:

i. one member of the legislature (state senator), recommended by the Senate President;

ii. one member of the legislature (state representative), recommended by the Speaker of the House;

iii. one member recommended by the governor; and

iv. 11 members, one member recommended by each board member, from the following categories:

(a). one teacher, grades K-6;

(b). one teacher, grades 7-12;

(c). one teacher (any grade) or coordinator of technology;

(d). two school librarians;

(e). one curriculum supervisor;

(f). two textbook supervisors;

(g). one parent or business representative;

(h). one LEA superintendent; and

(i). one school principal.

c. Referrals/Responsibilities

i. Advise the board on policy and procedure issues relating to the textbook adoption process.

ii. Consider all matters referred by the board.

d. Special Advisory Committees. Special advisory committees may be created by the board with a limited charge and scope to study a specific topic as referred by the board.

D. Officers. Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership a chair and a vice-chair. Elections shall be held annually at the first meeting in a fiscal year, and the councils shall report election results to the board.

E. Membership

1. Terms. Unless otherwise provided by state or federal law, persons recommended by board members/organizations/agencies to advisory councils shall serve at the pleasure of their recommending authority. All appointments are subject to ratification by the board. Removals, however, are not subject to board ratification, and a council member may be removed without cause by the board member recommending the appointment, by his/her successor, or by the recommending agency. Appointees must maintain employment/qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of his/her term. Appointments to fill vacancies shall be considered interim appointments and shall be ratified by the board.

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for

expenses shall be submitted in accordance with the regulations promulgated by the Commissioner of Administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may appoint a person to attend as his/her proxy. Unless otherwise provided herein, no proxy shall have voting privileges. A proxy, in order to receive reimbursement for travel and other expenses, must be properly appointed by the active member and recorded in the minutes as being present.

6. Attendance Policy

a. Appointed members are expected to attend all scheduled meetings of an advisory body. Unless otherwise provided, if a member is unable to attend a meeting, a request for an excused absence may be submitted to the council chair or the executive director and a non-voting proxy may be named by the appointed member to serve for a total of three meetings. Any appointed member who misses three consecutive meetings without an approved excuse shall be automatically terminated, and the appointing authority shall be asked to name a replacement.

b. The appointing authority for each member shall be notified immediately following each scheduled meeting indicating nonattendance of the appointee. The notification should include:

i. name of the council member and council on which serving;

ii. date of the meeting; and

iii. board policy on attendance.

F. Meetings

1. Each advisory council shall meet whenever necessary in order to consider referrals from the board. Special meetings shall be by call of the board, and emergency meetings may be called at the discretion of the executive director.

2. When possible, regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or his/her designee. When meetings cannot be regularly scheduled, the executive director or his/her designee shall set each meeting date in consultation with the chair of each council.

3. Notices of council meetings shall be mailed to council members by the board staff at least 10 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana Open Meetings Law (R.S. 42:6.1).

4. In all particulars, except for those listed in these rules and procedures, the business in advisory councils shall be conducted according to *Robert's Rules of Order*.

5. Every motion passed by an advisory council, whether or not made as a recommendation, shall be made as a main motion and must be seconded. All motions must be voted on and roll call votes may be requested by any of the membership in attendance at a meeting.



a. Requests from advisory councils for data/reports must be made in the form of a motion, requesting that the board direct the department or BESE staff to provide such information to the council making the request.

6. The minutes and reports of each advisory council shall be presented to the board's executive director for referral to the board. Actions taken in response to referrals shall be forwarded to the appropriate standing and/or special committee(s). A standing and/or special committee, after consideration of the recommendations of the advisory council, shall report its recommendations to the board for final action.

7. All meetings of standing and special committees and councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, R.S. 17:11, 34 CFR 300.650-652, and R.S. 17:1954.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008).

## **Chapter 7. Operations**

### **§701. Public Meeting Notice**

A. Compliance with the Open Meetings Law. All meetings of the board, its committees, and advisory councils shall be conducted according to provisions of the Open Meetings Law.

B. Public Notice. Public notices for regular and special meetings of the board, its standing and special committees, and its advisory councils shall be made as required by Louisiana's Open Meetings Law. A 24-hour written public notice shall be given of any regular, special, or rescheduled meeting of the board, its standing and special committees, and its advisory councils. The 24-hour public notice shall include the agenda, date, time, and place of the meeting, as posted on the BESE website.

C. Cancellations. Cancellations of any board or committee meetings shall be made only after a 24-hour notice to board members, or in the event of the absence of a quorum, at the scheduled time and place of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:5, R.S. 42:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008).

### **§703. Regular and Special Meeting Schedules**

A. The board annually sets board and committee meeting schedules for the upcoming fiscal year in January of each year. No meetings are scheduled in July, November, and March.

B. Regular Board Meetings. The president of the board shall call regular board meetings at least four times a year to fall within calendar quarters. Regular meetings of the board shall convene on the third Thursday of the month, except when meetings are adjusted to accommodate the holidays. A simple majority of board members may agree to meet on another day.

C. Special Board Meetings. Special meetings of the board may be held upon call of the president, and the president shall call a special meeting whenever requested to do so by a majority of the total members of the board.

D. Joint Board of Regents (BOR)/BESE Meetings. The Board of Regents shall meet with BESE at least twice a year

to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education.

E. Regular Committee Meetings. The chair of each standing or special committee of the board shall conduct regular committee meetings at such times as scheduled for consideration of items referred by the board to the committee.

F. Special Committee Meetings. Special meetings of a standing or special committee may be held upon call of the committee chair, and the chair shall call a special meeting whenever requested to do so by a majority of the total named members of the committee.

### **G. Committee of the Whole**

1. The board may, if it so desires, constitute itself as a committee rather than as a full body and proceed to discuss matters as if it were in a committee, i.e., with relaxed rules.

2. When the board convenes itself as a Committee of the Whole, it acts as any regular standing committee, which has received a referral(s) from the board. Its discussion is limited to the item(s) of referral, and it has no greater authority than a regular committee. The board president convenes and adjourns the meeting, and each committee chair presides over that portion of the meeting pertaining to the issues routinely considered by his/her committee. Votes are not final, and committee actions are considered to be recommendations from the committee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008).

### **§705. Agenda**

#### **A. Establishing Board Agenda**

1. The board recorder shall prepare the agenda.

2. A board member, the state superintendent, or the executive director may request that any item be included thereon either at a prior meeting or within the specified time before preparation and mailing of the agenda.

3. A board member, the state superintendent, or the executive director must request that an item be placed on the emergency agenda at least 24 hours prior to a scheduled meeting.

#### **B. Establishing Committee Agenda**

1. The agenda for each committee shall consist of only those items publicly noticed in accordance with the Louisiana Open Meetings Law.

2. The agenda for each committee meeting shall include consent items, standing items, unfinished business, new business resulting from board referrals, and public comments received regarding Notices of Intent.

3. Items shall be placed on committee agenda by using either the board's referral process or the draft agenda process as established through a board protocol. Items may be referred by board members, the state superintendent, or the executive director of BESE.

C. Mailing and Posting of the Agenda. The agenda for board and committee meetings shall be mailed to board members at least 10 days prior to the meeting date and posted on the web at <http://www.louisianaschools.net>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008).

**§707. Action/Quorum**

A. Official Board Action/Quorum. A quorum of the board consists of six of its members who must be present in order that official business may be legally transacted. Official board action requires that any matter be submitted to the board by motion duly seconded. The chair states the motion and calls for discussion, after which the board may act on such matter following repetition of the motion by the chair. Six members of the board shall constitute a quorum for the transaction of business, and all official actions of the board shall require the favorable vote of a majority of the total membership.

B. Unofficial Committee Action/Quorum. A quorum of a committee consists of at least two of its named members. Any board member attending a committee meeting has full voting privileges and may be substituted as a named member of a committee as needed to establish a quorum. Unofficial committee actions require the favorable vote of a simple majority of the board members present, but no less than two favorable votes are required for a motion to pass.

C. Procedural Rules

1. All procedural rules adopted herein, or by reference, shall govern business to the extent that they are not inconsistent with the Louisiana Open Meetings Law or any other applicable state law.

2. All other rules and procedures not modified by these guidelines shall be governed by *Robert's Rules of Order*, revised edition, to the extent that such is not inconsistent with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(C) and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008).

**§709. Board and Committee Meeting Protocol**

A. Meetings, Recess, and Adjournment

1. A *meeting* of the board or a committee of the board is a convening of a quorum of the members to receive information regarding a matter or to deliberate or act on a matter over which it has supervision, control, jurisdiction, or advisory power. Depending on the business to be transacted, a meeting may last from a few minutes to several hours and may be carried over for more than one day, if deemed necessary. A meeting does not include chance meetings or social gatherings of the members of the board at which there is no vote or other action taken, including formal or informal polling of the members.

2. A board meeting is a meeting of a majority of the total membership of the board to take official action on matters before it. The president of the board shall preside over the board meeting, unless absent, in which case the presiding officer shall be governed by the provisions set forth in §305 herein.

3. A committee meeting is a meeting of a quorum of the named committee members to consider and make recommendations on matters before it. The committee chair shall preside over the committee meeting, unless absent, in which case another named member of the committee shall preside.

4. A *recess* is an intermission of a meeting which does not end the meeting or destroy its continuity as a single gathering, and after which proceedings are immediately resumed from the point of interruption.

5. An *adjournment* terminates the meeting.

B. Motions

1. Procedures for the making of motions shall follow *Robert's Rules of Order*, unless modified by these guidelines.

2. The BESE staff member facilitating a meeting shall read each agenda item prior to the matter being considered. If the matter involves a report or presentation by a department or BESE staff member or other authorized representative, he/she may make the presentation and members may discuss and ask questions regarding the matter prior to the making of a motion.

3. There shall be no discussion on a motion until it is seconded. The discussion shall be limited to the merits of the pending question. The order of discussion shall be left solely to the discretion of the presiding officer or chair. No member shall speak without first receiving recognition of the presiding officer or chair.

4. Each member shall be allowed to speak no more than twice on the same motion, unless he/she requests permission of the presiding officer or chair to be allowed to answer something of a personal nature or to correct a gross mistake. This shall in no way be interpreted to supersede the personal privilege prerogative of each member, as provided herein.

5. The maker of a motion shall be given the first opportunity to speak and to close on the motion, if he/she so desires. It is recommended that each member, in discussing an issue, attempt to:

- a. confine his/her remarks to the merits of the pending question;
- b. refrain from attacking a member's motives;
- c. address all remarks through the presiding officer or chair;
- d. refrain from speaking on a prior action unless it is reconsidered by the board or committee;
- e. read reports, quotations, etc., only without objection;
- f. refrain from disturbing the board or committee meeting, if possible;
- g. limit comments so everyone who wishes to speak on a motion may do so; and
- h. refrain from engaging in prolonged question and answer dialogue with staff on specific issues that could be addressed before/after the meeting.

6. There shall be no more than two amendments to a motion that is before the body. If one of these two is removed, another may be added.

7. A motion to close debate requires a 2/3 vote of those members present and voting.

8. Only those motions pertaining to items that are included in the agenda and are germane shall be considered.

C. Voting

1. All voting shall be by voice vote, except when taken by roll call vote or when a member requests that his/her vote be recorded for the record.

2. A roll call vote must be taken on any motion if requested by any one member of the board. Roll call votes shall be taken alphabetically, except that the presiding officer or chair shall have the option of voting last in order or not voting.

3. A roll call vote must be taken on any motion to convene into executive session.

4. At the board meeting, when approving committee minutes and acting on committee recommendations, any board member can request that a matter be addressed by the board.

#### D. Rules of Conduct

1. Board members and staff should be on time for meetings, especially the first meeting each day.

2. The presiding officer or chair should be cognizant of the schedule for board and committee work and attempt to conduct business within the time allotted. The presiding officer shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical nature.

3. It is the responsibility of the presiding officer or chair to direct the orderly meeting discussion. The presiding officer or chair, as an individual member, has the same right to discussion as any other member, but the impartiality required of the presiding officer in a discussion precludes his/her exercising these rights while he/she is presiding. If the presiding officer or chair wishes to make lengthy discussion comments he/she should relinquish the chair, secure recognition, and participate. It is requested that any remarks that the presiding officer wishes to make concerning an issue be made after all other members have been recognized.

4. Department personnel should condense all presentations as much as possible and only in special instances should these presentations exceed 30 minutes.

5. An individual board member may request from the department any public document, which has already been prepared or is in a readily available form.

6. A board member may not request new research, records, or reports not available and which requires compilation or research without a motion adopted by a majority of the board.

7. Persons other than the executive director, staff persons assigned to the committee, the state superintendent, or the deputy superintendents should not be on the dais while business is being conducted.

8. The presiding officer or chair should ask all presenters to identify themselves for the record.

9. Private discussions among board member(s), staff, or the state superintendent should occur away from the designated meeting area. The audience is asked to go outside the meeting room for their personal discussions.

10. Board members are asked to remain seated when local school personnel are making presentations to the board, as it is always an honor to be recognized by state-level officials.

11. Cell phones and beepers should be turned off or taken to the side rooms for conversations when activated.

12. Each member shall have the opportunity to speak on personal privilege following request by the member and recognition by the presiding officer. This privilege shall be conducted according to *Robert's Rules of Order*.

13. When a member feels the rules are being violated as to procedure, the member may make a Point of Order request to the presiding officer, calling for a ruling and an enforcement of the regular rules. A Point of Order shall follow procedures in *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:4.2, R.S. 17:3(C), R.S. 42:5(C), and R.S. 42:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008).

#### §711. Order of Business for Board Meetings

A. The presiding officer shall call the meeting to order and request that the executive director call the roll to determine the presence of a quorum.

B. The proposed agenda shall be adopted as the official order of business for the meeting, including unfinished business from the preceding meeting and any emergency items, as publicly noted. The agenda adopted shall not include any items that have not been posted pursuant to §701.B and the Louisiana Open Meetings Law.

C. The minutes of the preceding meeting of the board, if available, shall be considered and approved.

D. The board may consider ceremonial acknowledgments as determined by the presiding officer. Such ceremonial acknowledgments should generally be made on behalf of the board by the presiding officer and the member representing the recipient's district.

E. The board shall hear committee reports from the chair of the committee or his/her designee and act on recommendations of the committee.

F. The board shall consider and act on other items on the agenda adopted in compliance with the procedures herein, including any emergency items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008).

#### §713. Public Comments

NOTE: It should be noted that BESE meetings, while open to the public, are not public hearing forums; therefore, public comments shall be allowed at the discretion of the presiding officer or chair, subject to the provisions provided herein.

A. In order to carry on its business in an orderly and efficient manner, the board utilizes standing committees and special committees. Full discussion of board business usually occurs at the committee level, and public comment should ideally be at that time rather than after a recommendation has been forwarded to the board. Opportunity to comment publicly on a committee or board agenda item may be provided to a representative number of proponents and opponents according to the following procedures.

1. Persons desiring to address the committee/board should complete a Request to Comment Card and submit it to the presiding officer or a BESE staff member prior to the beginning of the meeting. The completed card should identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the presiding officer or chair.

2. All speakers shall conduct themselves in a decorous manner.

3. The presiding officer or chair shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical nature.

4. The order of discussion shall be left solely to the discretion of the presiding officer or chair.

5. Persons addressing the committee/board shall confine remarks to the merits of a specific agenda item before the committee/board; refrain from attacking a board member's motives; address all remarks through the presiding officer or chair; refrain from speaking adversely on a prior action not pending; read reports only without objection; and refrain from disturbing the meeting.

6. Public comments should be limited to 3 minutes per person.

7. Persons making public comments shall identify themselves and the group they represent, if any.

8. Groups and/or organizations should designate one spokesperson.

9. The presiding officer or chair shall have discretion to manage situations not addressed in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008).

#### **§715. Executive Session**

A. An executive session of the board or its committees shall be conducted in accordance with state law and ordinarily shall include, but not be limited to, matters dealing with personnel, security measures, prospective litigation, and pending litigation.

B. The board may hold an executive session upon an affirmative vote, taken at an open meeting, of two-thirds of its constituent members present. The vote shall be taken by roll call vote. The vote of each member and the reason for holding an executive session shall be recorded and entered into the minutes of the meeting.

C. No final or binding action shall be taken during executive session.

D. When pending or prospective litigation may be considered by the board in executive session, the following information must be included in or attached to the written public notice of the meeting:

1. A statement identifying the court, case number, and the parties relative to any pending litigation.

2. A statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:6, R.S. 42:6.1, and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

#### **§717. Tape Recordings**

A. Tape recordings are made of all official meetings of the board, its committees, and advisory councils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

#### **§719. Minutes**

A. In accordance with the Open Meetings Law, the board shall keep written minutes of all of its open meetings. All meetings of standing and special committees and advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties; and actions of the committees and advisory councils, to be operative, shall be recorded and presented to the board at its next regular meeting.

B. The advisory council, committee, and board minutes shall include, but need not be limited to:

1. the date, time, and place of meeting;

2. the members recorded as either present or absent;

3. the substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken;

4. any other information that a member requests be included or reflected in the minutes.

C. Board minutes shall not include roll call votes, abstentions, "yes" or "no" votes, or recusals placed on the record in committee.

D. A committee or board member may request that his/her views on individual items become part of the committee or board meeting minutes. To become part of the committee minutes, such views must be expressed at the committee meeting. To become part of the board minutes, such views may be expressed at the board meeting or may be presented to the board recorder, in writing, within three working days after the board meeting.

E. Board minutes shall be considered unofficial until approved by the board at its next scheduled meeting, at which time they become official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:7.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

#### **§721. Records Retention and Destruction**

A. All records of the board are maintained and/or destroyed in accordance with the board's Record Retention Policy and Records Retention Schedule on file at the Office of the Secretary of State, Division of Archives, Records Management, and History.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 44:36

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

#### **§723. Documents, Papers, Property**

A. No documents, papers, or any other property of the board shall be removed from the office of the board without the authorization of the board or of its executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

### **Chapter 9. Equal Employment**

#### **§901. Equal Employment Opportunity; Affirmative Action**

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, Title VII of the Civil Rights Act of 1964), the Board of Elementary and Secondary Education upholds the following policy: This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in employment in all agencies and institutions under its direct supervision (Louisiana Department of Education, the Special School District, and the BESE Special Schools). Applicants and employees will not be discriminated against on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor in any aspect of employment such as recruitment, hiring, promotion, retention, tenure, discharge, layoff, compensation, leave, fringe benefits, training, or any other employment practice or benefit.

B. Should violations of any equal employment opportunity laws or regulations occur, appropriate disciplinary action will be taken by the appointing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

### **§903. Civil Rights Compliance and Assurances**

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; §504 of the Rehabilitation Act of 1973), the Board of Elementary and Secondary Education upholds the following policy: This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in all programs or activities under its direct supervision (Louisiana Department of Education, the Special School District, and the BESE Special Schools) or jurisdiction including city, parish, or other local public school systems or other entities receiving state or federal financial assistance through the board. No one will be discriminated against in any employment practice or in any educational program or activity on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor.

B. The board will receive and oversee distribution of state and federal funds to city, parish, or other local public school systems or other entities qualifying for financial assistance for educational programs.

C. The board will enter into agreements with funding agencies as are necessary to ensure nondiscrimination and will submit such reports as may be required.

D. The staff of the Louisiana Department of Education will conduct compliance activities as required by agencies providing funding to ensure compliance with their regulations.

E. All appropriate records shall be maintained and will be available for inspection by those agencies providing financial assistance.

F. All city, parish, or other local public school systems or other entities under the jurisdiction of the board which receive state or federal financial assistance through the board will sign an assurance document stating that they will comply with all applicable board policies, Louisiana Department of Education regulations, and federal and state laws regarding civil rights compliance.

G. Should violations of any civil rights laws and/or regulations occur, appropriate action will be taken by the board in conjunction with the respective funding agency. Such actions may include voluntary compliance, remedial action, or withholding financial assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008).

## **Chapter 11. Finance and Property**

### **§1101. Projects and Facilities**

#### **A. Capital Projects**

1. All requests for new capital construction or renovation projects submitted by board entities, including the Board Special Schools, the Special School District, and the Recovery School District, shall comply with all applicable state laws, all applicable regulations issued by the Division of Administration, and all BESE policy.

2. Requests for capital projects from the BESE Special Schools shall be submitted to the Special School District State Director.

3. All requests for any given fiscal year shall be prioritized by the Louisiana Department of Education, and the department shall present the priority listing of projects to the board. The board shall approve all capital construction or renovation projects and the priority of the requests prior to submission to the executive and legislative branches of government or prior to implementation of a project, as applicable.

#### **B. Use of Facilities**

1. When facilities of board institutions and facilities under the jurisdiction of the RSD are used for activities other than those of the institution or district, organizations concerned shall be required to reimburse the school for all costs incurred in connection with the activity, and they shall be further required to carry sufficient public liability insurance to protect all parties concerned, including the institutions or district.

2. Dining facilities at institutions or schools under the control of the board are not open to the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008).

### **§1103. Purchasing, Auditing, and Contracts for Professional Services**

A. Purchasing. Entities under the jurisdiction of the board shall comply with all applicable federal and state laws, rules, and regulations and board policy which govern the purchase of goods and services.

#### **B. Auditing**

1. Entities under the jurisdiction of the board shall submit to an audit of their operations. This audit shall be conducted in accordance with provisions and timelines established by the Office of the Legislative Auditor.

2. Once the Office of the Legislative Auditor has issued a report on the operations of an entity under the board's jurisdiction, it shall be the responsibility of the department to provide the board with a complete analysis of the report and to recommend corrective actions to be taken when necessary.

3. The board shall annually approve the audit plan for the operations of the Bureau of Internal Audit (BIA) within the Louisiana Department of Education.

#### **C. Contracts for Professional Services**

1. Entities under the jurisdiction of the board shall negotiate all contracts for professional/consulting services in accordance with all applicable federal and state laws and in accordance with all applicable federal and state rules and regulations and board policy.

2. The state superintendent may negotiate and approve contracts for professional/consulting services in an amount determined by the board and shall issue a report to the board on all contracts approved.

3. The state superintendent shall recommend to the board for approval all contracts for professional/consulting services negotiated by the BESE Special Schools and the Special School District under the board's jurisdiction.

4. The state superintendent shall recommend to the board for approval all contracts for professional/consulting

services negotiated by the RSD in accordance with board policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008).

## **§1105. Budgets**

### **A. General Policies**

1. The department, including the Special School District and the Recovery School District, and all entities under the jurisdiction of the board, including the BESE Special Schools, shall submit all budget requests for all funds (state, federal, self-generated, etc.) to the board for review and approval. The entities shall be responsible for complying with all state laws and regulations regarding budget submission to the executive and legislative branches of government.

2. In approving budgets for the department and entities under the board's jurisdiction, the board shall be guided by all state plans adopted for the purpose of administering federal and state funded programs.

B. Budget Submission. The department, including the Special School District and the Recovery School District, and entities under the jurisdiction of the board, including the BESE Special Schools shall submit in a timely manner their budgets to the board for approval prior to submission to the Division of Administration and legislative offices.

C. Budget Forms. The department, including the Special School District and the Recovery School District, and entities under the jurisdiction of the board, including BESE Special Schools, shall submit their budgets on the forms prescribed by the Division of Administration.

D. Amendments and Revisions. Any budget requiring approval by the board can only be amended in accordance with state law and shall be reported to the board.

E. Interim Emergency Board. Prior to the submission of a request for funding from the Interim Emergency Board of the legislature, the department, including the Special School District and the Recovery School District, and entities under the jurisdiction of the board, including the BESE Special Schools, shall complete requests on forms prescribed by the Interim Emergency Board and shall receive approval for submission by the board. Submissions to the Interim Emergency Board shall be in compliance with all rules promulgated by that board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008).

## **§1107. Minimum Foundation Program**

### **A. MFP: General Provisions**

#### **1. Board Adoption**

a. The State Superintendent of Education shall prepare and recommend to the board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In considering this recommendation, the State Superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The board shall adopt a minimum foundation formula for the equitable allocation of funds to local school systems. Once adopted, the board shall transmit the formula

to the Joint Legislative Committee on the Budget and all other appropriate entities and offices of the executive and legislative branches of government.

#### **2. Local Responsibility**

a. It shall be the responsibility of parish/city and other local school systems, recovery school district schools, and LSU and Southern Lab schools to submit to the State Department of Education in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the department in the form required by the department. It shall also be the responsibility of all parish/city and other local school systems, recovery school district schools, and LSU and Southern Lab schools to follow all circulars issued by the department providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

#### **B. MFP Payments**

1. Each parish/city and other local school system, recovery school district school, and LSU and Southern Lab school shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

#### **C. MFP: Student Membership Definition**

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish/city and other local school system, recovery school district school, and LSU and Southern Lab school shall adhere to the following.

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to:

i. no student will be counted more than one time. Students attending more than one school will be counted in membership only one time;

ii. all students, including special education students, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before student count dates designated in the current adopted MFP resolution. (If student count date(s) falls on a Saturday, report membership on the previous Friday. If student count date(s) falls on a Sunday, report membership on the following Monday.);

(b). are actively attending school (all current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to Child Welfare and Attendance Officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a

notification of transfer has been provided by the student's parent/legal guardian or received from another school.);

iii. students who are in BESE approved alternative programs (schools) in parish/city and other local school systems, recovery school district schools, or LSU and Southern Lab, will be included in the base student membership count.

iv. students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student membership count.

v. all special education preschool (ages 3-5) students will be included in the base student membership count.

vi. All special education infant (ages birth-2) students for whom one or more of the sixteen identified services are provided, shall be included in the base student membership count.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student membership count.

viii. Private school students receiving special education services through any public school system or school will NOT be included in the base student membership count.

ix. Students will be included in the base student membership count until the chronological age of 21 years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student membership count for that school year.

#### D. MFP: Add-on Students/Units

1. Required Data. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE and the number of students identified as English Language Learners (ELL) that were not included based on income eligibility guidelines. The current income eligibility guidelines include those students who have approved applications to participate in the federal free and reduced price breakfast and lunch program. The Fall count is determined by the number of approved applications for the free and reduced price lunch program and those ELL students not included on income eligibility guidelines during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced lunch and those ELL students not included on income eligibility guidelines as reported in SIS, as of that count date.

b. Career and Technical Education Unit Count shall be determined by the number of Secondary Career and Technical Education courses per student as reported by the school districts through the Louisiana Education Accountability Data System (LEADS) for the prior year.

c. Special Education—Other Exceptionalities Student Count shall be determined by the number of Special Education students identified as having "other exceptionalities" in the Special Education Reporting (SER) database as of the student count date(s) including:

i. infants and toddlers ages 0-2, who have a current Individual Family Service Plan (IFSP) and are currently receiving services; and

ii. both public and nonpublic, special education students ages 3-21 identified as having a disability as defined by R.S. 17:1943 who have a current Individual Education Plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD#1 and certain correctional facilities are excluded.)

d. Special Education—Gifted and Talented Student Count shall be determined by the number of Special Education students identified in the SER database as of the student count date(s) which includes both public and nonpublic special education students ages 3-21 identified as gifted and talented as defined by R.S. 17:1943 who have a current IEP and are currently receiving services from any local public school system or school.

e. Economy of Scale Student Count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

AUTHORITY NOTE: Promulgated in accordance with Art. VIII § 13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008).

### §1109. Expenditure of Public Education Monies

A. All expenditures allocating or obligating public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations, and policies. Any public employee of the board office who recommends or authorizes contract awards and/or expenditure of funds knowingly to be in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008).

## Chapter 13. Regulatory Documents

### §1301. Bulletins

A. All regulatory policies and procedures adopted in response to state statutory requirements, most noticeably Louisiana Revised Statutes, Title 17, are contained in bulletins. Regulatory policies and procedures must be adopted by BESE as Rules through the rulemaking process set forth in Louisiana Administrative Procedure Act (APA). Once adopted, Rules have the force and effect of law. The *Louisiana Register* requires that rules be codified, adhering to a prescribed uniform system of indexing, numbering, arrangement of text, and citation of authority and historical notes. APA requirements include an advertisement and comment period, as well as oversight procedures for the legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008).

### §1303. Rulemaking

A. A *rule* is a statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the board or the department, which has general applicability and the effect of implementing or

interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the board. The term *rule* includes the amendment or repeal of an existing rule.

B. All rules adopted by the board must be adopted in accordance with the Louisiana Administrative Procedure Act (APA).

C. The following process must be followed for adoption of all rules:

1. The board approves a proposed rule to be advertised as a Notice of Intent.

2. Following approval of a proposed rule to be advertised as a Notice of Intent:

a. The appropriate department/BESE staff is requested to submit a Fiscal Impact Statement (FIS), Family Impact Statement, proposed policy language, present policy language (if there is a policy already in existence), and comparison language (if applicable).

b. These documents are submitted to the Legislative Fiscal Office (LFO) for approval.

c. After the Fiscal Impact Statement is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. A report regarding the rule is also submitted to the appropriate legislative committees.

d. Once the Notice of Intent is published in the *Louisiana Register*, a period of 90 days must elapse to allow for public comment on the proposed policy before the Notice of Intent can be placed on the board agenda for final adoption as a Rule.

e. Any public comments received during that period are forwarded to the LDE/board office, to the appropriate BESE committee, and to the appropriate legislative committees for consideration.

f. In the event that substantive changes are made to the Notice of Intent as a result of the public comments received, the board can choose to:

i. approve for final adoption only those sections that will not be changed as a result of the public comments and readvertise as Notice of Intent only those sections requiring substantive change; or

ii. not approve the Notice of Intent for final adoption, and begin the entire process anew.

3. When the board approves the Notice of Intent for final adoption as a Rule, it is submitted to the *Louisiana Register* for publication. The deadline for submission of information for publication in the *Louisiana Register* is the 10th of the month. Therefore, Notices of Intent approved for final adoption by the board are not advertised as a Rule in the *Louisiana Register* until the month following their approval by the board.

D. Due to the board meeting schedule, the Fiscal Impact Statement approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. Louisiana Administrative Code, Title 28, Part Numbers XI, ad infinitum, have been reserved for board and department bulletins.

F. Codified board policies are posted on the *Louisiana Register* website and are accessible through links on the BESE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008).

### **§1305. Amendments**

A. Rules may be amended by an affirmative vote of six BESE members at any regular meeting of the board or at any special meeting where the proposed amendment is included on the agenda. The text of any proposed amendment shall be submitted, in writing, to the board and received by its members at least 10 days prior to the meeting at which action is to be taken.

B. The adoption of amendments to rules must follow the procedures outlined in §1303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:427 (March 2008).

### **§1307. Federal Eligibility Documents**

A. State plans, consolidated state applications, and/or other eligibility documents are state policies and procedures adopted in accordance with federal regulations and/or administrative procedures for the operation of a specific federal program. Such policies and procedures are promulgated in accordance with all federal administrative laws and/or procedures. Examples of federal laws requiring state plans and/or eligibility documents are: Elementary and Secondary Education Act, Individuals with Disabilities Act, and the Adult Education Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:427 (March 2008).

Weegie Peabody  
Executive Director

0803#011

## **RULE**

### **Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District,  
and State Accountability System  
(LAC 28:LXXXIII.703, 4302, 4310, and 4313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations.

The identical changes in Bulletin 111, §703 and §4310, combine the 1 percent and 2 percent caps, students scoring proficient on LAA 1 and LAA 2, respectively, to a 3 percent cap. Changes for §4302 provide District Responsibility Indicators for how school districts are to be



held accountable, and §4313 eliminates the District Responsibility Index. Section 4313 also details how a district exits District Improvement status.

**Title 28**

**EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 7. Subgroup Component**

**§703. Inclusion of Students in the Subgroup Component**

A. - C.1.b.ii. ...

c. Beginning in Fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA1 and LAA2 students labeled proficient does not exceed 3 percent of all students tested within the district.

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), 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).

**Chapter 43. District Accountability**

**§4302. District Responsibility Indicators**

A. Teacher Certification Indicator

1. The teacher certification indicator is based on the percentage of state core classes (English, mathematics, science, and social studies) taught by three categories of teachers, those with:

- a. Standard Teaching Certificate for Area of Assignment;
- b. Non-Standard Certificate for Area of Assignment: (Out of Field or Temporary Authority—TAT, OFAT, TEP); and
- c. No Authority to Teach (no certification).

2.a. The LDE shall calculate the following two teacher certification indices:

i. low performing schools (1 Star and Academically Unacceptable), and:

(a). in instances when a district's schools all fall into 1 category (low performing or other), the index for that category shall also be considered the overall teacher certification indicator;

ii. other schools—not low performing (2 Star and above).

b. The low performing school index is assigned a 75 percent weighting and the other school index a 25 percent weighting in the teacher certification indicator.

c. Each teacher certification index is calculated by first determining the percentage of state core classes taught by each of the three categories of teachers in the appropriate school group (low performing or other—not low performing).

i. The percentages of state core classes taught by teachers in each category are weighted and converted to points by the following factors:

(a). 1.0 times the percentage of classes taught by teachers with standard certification;

(b). 0.5 times the percentage of classes taught by teachers with non-standard certification;

(c). 0.0 times the percentage of classes taught by teachers with no authority to teach.

ii. Sum the weighted points for low performing schools and again for other schools.

iii. Weight the low performing schools point total by 75 percent.

iv. Weight the other schools point total by 25 percent.

v. The district teacher certification indicator is the sum of the values from iii and iv (above)

vi. Example of the calculation of the district teacher certification indicator

District Teacher Certification Indicator Calculation					
Certification	Assigned Value	Percentage in Low Performing Schools	Points	Percentage in Other Schools	Points
Standard	1.0	92.4%	92.4	92.2%	92.2
Non-Standard	0.5	5.0%	2.5	4.8%	2.4
No Authority to Teach	0.0	2.6%	0.0	3.0%	0.0
Subtotals	94.9	94.6			
Low Performing Weight	75%	x 94.9	Low Performing Weighted Value	71.2	
Other Schools Weight	25%	x 94.6	Other Schools' Weighted Value	23.7	
	Teacher Certification Indicator	94.9			



3. Districts shall be assigned a label based on the value of the district teacher certification indicator as follows.

District Teacher Certification Indicator	
Indicator Value	Label
97.0 – 100.0	Exceptional
94.0 – 96.9	Adequate
90.0 – 93.9	Marginal
< 90.0	Unacceptable

B. 8th Grade Persistence Indicator. The 8th grade persistence indicator is based on a district's success at keeping 8th grade students enrolled in school.

1. The 8th grade persistence indicator shall be calculated using an aggregate of two years of student data, and because of extensive time afforded districts to correct exit data, it shall use data lagged by one year.

a. Example—The Spring 2007 8th grade persistence indicator shall be calculated using data from academic years 2003-04 and 2004-05.

2. Students enrolled in a district for at least one full day of a given academic year, less those students exiting the district school system for legitimate reasons (as defined in the Student Information System User Guide) shall be included in the denominator used to calculate the 8th grade persistence indicator.

3. Since the calculation aggregates two years of student data, those students eligible for inclusion in the denominator in one or both of the appropriate two years shall provide the count to be used as the denominator.

4. The numerator is comprised of those students in the denominator who are enrolled in public education for at least one day the following academic year.

5. Example of the calculation of the district 8th grade persistence indicator.

District 8th Grade Persistence Indicator Calculation						
Enrolled			Returned Oct 1			
2003-04	2004-05	Total	2004	2005	Total	Percent Returned
669	713	1382	660	702	1362	98.6%

6. Districts shall be assigned a label based on the value of the district 8th grade persistence indicator as follows.

District 8th Grade Persistence Indicator	
Indicator Value	Label
98.0 – 100.0	Exceptional
96.0 – 97.9	Adequate
94.0 – 95.9	Marginal
< 94.0	Unacceptable

C. Financial Risk Indicator. The factors included in the financial risk indicator were originally developed in 2004-05. They are currently under review at the request of the Board of Elementary and Secondary Education. The use of this data as a district responsibility indicator will be defined following any needed revisions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:634 (April 2005), amended LR 33:1611 (August 2007), LR 34:428 (March 2008).

**§4310. Subgroup Component AYP (Adequate Yearly Progress)**

A. - B.3.b.ii. ...

c. Beginning in Fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA1 and LAA2 students labeled proficient does not exceed 3 percent of all students tested within the district.

d. Students participating in LAA 1 or LAA 2 shall be included in the special education subgroup.

e. LEP students shall participate in the statewide assessments.

i. Scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

B.4. - E.2.b.Note ...

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), LR 33:635 (April 2007), LR 34:429 (March 2008).

**§4313. Corrective Actions**

A. The Louisiana Department of Education shall report district scores and labels on every school district.

B. The district responsibility index and the associated labels are discontinued. Districts must complete a self-assessment only after failing all three clusters in the same subject.

1. The DOE shall review each self-assessment.

2. The DOE may recommend that BESE schedule a district dialogue with the district.

C. - E.3. ...

F. Districts shall exit district improvement if they pass subgroup AYP in the same subject for which they entered district improvement in the same cluster for two consecutive years. An example is in the following table.

Examples of Districts That Entered District Improvement (DI) in 2004 Due to Math Results							
Cluster Performance	2005			2006			Result
	K-5	6-8	9-12	K-5	6-8	9-12	
	Pass	Fail	Fail	Fail	Pass	Pass	
Pass	Pass	Pass	Fail	Fail	Fail	Advance to DI Level 2	
Pass	Fail	Fail	Pass	Fail	Fail	Exit DI	
Fail	Pass	Pass	Fail	Fail	Pass	Exit DI	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:1334 (July 2007), LR 33:1612 (August 2007), LR 33:2032 (October 2007), LR 34:429 (March 2008).

Weegie Peabody  
Executive Director

0803#007

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 111—The Louisiana School, District, and State Accountability System—School Performance (LAC 28:LXXXIII.Chapters 3, 5, and 24)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28, Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations.

The changes in Bulletin 111 delete mention of the obsolete means by which the criterion-referenced and norm-referenced assessments were calculated in prior years. Additionally, the changes also clarify the testing population requirements that schools without a district feeder pattern must meet in order to have baseline and/or Growth School Performance Scores calculated (at least 40 full-academic-year students for two consecutive academic years). Additionally, the changes specify that existing Rule regarding school exit criteria from the Recovery School District (RSD) in Chapter 24(B) are per R.S. 17:10.5 and that exit criteria for schools that enter RSD per R.S. 17:10.7 are as provided in the statute.

### Title 28 EDUCATION

#### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

##### Chapter 3. School Performance Score Component

##### §301. School Performance Score Goal

A. - E.2.d. ...

3. 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.

F. - L. ...

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 (November 2006), LR 32:2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 34:430 (March 2008).

##### §305. Calculating the CRT Index

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 31:2762 (November 2005), repealed LR 34:430 (March 2008).

##### §309. Formula for Calculating a CRT Index for a School [K-8]

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 34:430 (March 2008).

##### §311. Calculating the CRT Index [9-12]

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 31:763 (April 2004), repealed LR 34:430 (March 2008).

##### Chapter 5. Calculating the NRT Index

##### §501. Formulas Relating Student Standard Scores to NRT Index (K-8)

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 31:1512 (July 2005), repealed LR 34:430 (March 2008).

##### §503. Calculating the NRT Index [K-8]

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 34:430 (March 2008).

##### §505. Calculating the NRT Index [9-12]

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 34:430 (March 2008).

##### §507. Formula for Calculating a NRT 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 29:2740 (December 2003), repealed LR 34:430 (March 2008).

**§509. Inclusion of Alternate Assessment Results in the NRT**

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 31:2762 (November 2005), repealed LR 34:431 (March 2008).

**§519. Inclusion of Schools**

A. - I. ...

J. 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.

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).

**Chapter 24. Recovery School District**

**§2401. Recovery School District**

A. ...

1. The LEA fails to submit a reconstitution plan for a school in AUS 4 to BESE for approval.

2. - 4. ...

B. A school that enters the Recovery School District under R.S. 17:10.5 shall remain until:

B.1. - C.3. ...

D. Schools entering the RSD under the provisions of R.S. 17:10.7 shall exit as provided in the statute.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1028 (June 2006), amended LR 34:431 (March 2008).

Weegie Peabody  
Executive Director

0803#008

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.305 and 1801)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §305.Test Security Policy and §1801.End-of-Course Tests. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration.

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 guidelines for usage of the statewide online

assessment data systems and update the names of content areas to be assessed through EOCT testing.

**Title 28**

**EDUCATION**

**Part CXI. Bulletin 118—Statewide Assessment Standards and Practices**

**Chapter 3. Test Security**

**§305. Test Security Policy**

A. - A.14.a. ...

i. LEAPdata Query System. Principals should contact their DTC or Backup DTC for assistance in training teachers. After training, all school users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. Signed security agreements are valid until the DTC receives notification that the Security Agreement available online has been revised. A new security agreement should be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

b. ...

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators, counselors, or office staff with whom the principal shares his/her PIN) should have access to the system and must sign a security agreement. Signed security agreements are valid until the DTC receives notification that the Security Agreement available online has been revised. A new security agreement should be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or Backup DTC for assistance and training..

b.ii. - c. ...

i. EAGLE System. Principals should contact their district designee, DTC, Backup DTC, or District Curriculum Supervisor for assistance in training teachers. After training, all users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. Signed security agreements are valid until the DTC receives notification that the Security Agreement available online has been revised. A new security agreement should be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. Keep copies signed by all school users on file at the school. If a breach in security occurs, principals should immediately contact the District Designee, District Test Coordinator, or Backup District Designee for a replacement password. Principals should always contact their district designee, DTC, Backup DTC, or District Curriculum Supervisor for assistance and training.

d. All users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:431 (March 2008).

## **Chapter 18. End-of-Course Tests**

### **§1801. Description**

A. The tests which are both criterion-referenced and standards-based assessments will be available online to high school students beginning fall 2007. The tests will be phased in over a period of five years beginning with Algebra I. In the first years of administration, participation will be voluntary by districts. Policies regarding the use of EOCT results shall be determined by the district's local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in the high school courses:

1. - 2. ...
3. English II;
4. English III;
5. - 7. ...
8. Free Enterprise; and
9. Physical Science.

B. - E. ...

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 33:258 (February 2007), amended LR 34:432 (March 2008).

Weegie Peabody  
Executive Director

0803#009

## **RULE**

### **Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State  
Certification of School Personnel  
(LAC 28:CXXXI.347, 401, 403, 410, and 421)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §347, Junior Reserve Officers Training Corps Instructor (ROTC) (formerly §410). This revision will move the current policy for Ancillary certification as a Junior Reserve Officers Training Corps Instructor (ROTC) from Chapter 4, Subchapter A, §410 to Chapter 3, Subchapter C, §347 since (ROTC) is a teaching area.

In addition, other technical changes are being made to Chapter 4, Ancillary School Services Certificates, Subchapter A, Child Nutrition Program Supervisor and Subchapter B, School Therapists will be removed and the Section title of §403 will be changed to Child Nutrition Program Supervisor.

## **Title 28**

### **EDUCATION**

#### **Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**

#### **Chapter 3. Teaching Authorizations and Certifications**

##### **Subchapter C. Ancillary Teaching Certificates**

##### **§347. Junior Reserve Officers Training Corps Instructor (ROTC) (Formerly §410)**

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

B. Provisional Certification: Valid for five years.

###### **1. Eligibility Requirements**

a. Be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, O3 through O6; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. Renewal Guidelines. May be renewed upon request of the Louisiana employing authority.

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 34:432 (March 2008).

#### **Chapter 4. Ancillary School Services Certificates**

##### **§401. Introduction**

A. An individual must have an official authorization from the state to provide services to children in a Louisiana school setting. An ancillary certificate allows a qualified person who is not a certified teacher to provide such services. The holder of an ancillary certificate is authorized to perform only those services that are specifically stated on the certificate in the school systems of Louisiana.

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 32:1807 (October 2006), repromulgated LR 34:432 (March 2008).

##### **Subchapter A. Child Nutrition Program Supervisor**

##### **§403. Child Nutrition Program Supervisor**

A. Child Nutrition Program Supervisor—valid for life with continuous service.

B. - E.2. ...

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 32:1807 (October 2006), amended LR 33:280 (February 2007), LR 34:432 (March 2008).

##### **§410. Junior Reserve Officers Training Corps Instructor (ROTC)**

A. Repealed.

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 33:281 (February 2007), repromulgated LR 33:1617 (August 2007), repealed LR 34:432 (March 2008).

**Subchapter B. School Therapists**

**§421. Overview**

A. School Art Therapist—Valid as long as holder remains in the same school system.

A.1. - F.2.b. ...

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 32:1811 (October 2006), amended LR 34:433 (March 2008).

Weegie Peabody  
Executive Director

0803#010

**RULE**

**Department of Environmental Quality  
Office of the Secretary**

**Ambient Air Standards for Particulate Matter  
(LAC 33:III.701, 703, and 711)(AQ288)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.701, 703, and 711 (Log #AQ288).

In 2006, the Environmental Protection Agency revised the National Ambient Air Quality Standards (NAAQS) for particulate matter. The revised NAAQS address two categories of particle pollution: fine particles (PM<sub>2.5</sub>), which are 2.5 micrometers in diameter and smaller; and inhalable coarse particles (PM<sub>10</sub>), which are smaller than 10 micrometers. This Rule updates the Louisiana air quality regulations to include the revised particle standards. The EPA strengthened the 24-hour PM<sub>2.5</sub> standard from the 1997 standard of 65 micrograms per cubic meter to 35 micrograms per cubic meter, and retained the current annual PM<sub>2.5</sub> standard of 15 micrograms per cubic meter. For inhalable coarse particles, EPA retained the existing national 24-hour PM<sub>10</sub> standard of 150 micrograms per cubic meter and revoked the annual PM<sub>10</sub> standard. The basis and rationale for this Rule are to update the Louisiana air quality regulations to include the revised NAAQS for particulate matter to ensure continued protection of the environment and human health and welfare. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 7. Ambient Air Quality**

**§701. Purpose**

A. ...

B. Particulate Matter. The purpose of this Chapter is to maintain concentrations of particulate matter in the ambient air at levels which will not cause damage or injury to plant or animal life. In addition to health considerations, attainment of the standards will result in economic and

aesthetic benefits such as increased visibility and reduced soiling and corrosion.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:433 (March 2008).

**§703. Scope**

A. This Chapter is applicable to all sources of particulate matter, sulfur dioxide, carbon monoxide, atmospheric oxidants, nitrogen oxides, and lead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 34:433 (March 2008).

**§711. Tables 1, 1a, 2—Air Quality**

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM <sub>10</sub>	150 µg/m <sup>3</sup>	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM <sub>2.5</sub>	15.0 µg/m <sup>3</sup>	(Annual arithmetic mean)
	35 µg/m <sup>3</sup>	24-hour
Sulfur Dioxide (SO <sub>2</sub> )	80 µg/m <sup>3</sup>	or 0.03 ppm (Annual arithmetic mean)
	365 µg/m <sup>3</sup>	or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m <sup>3</sup>	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m <sup>3</sup>	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO <sub>2</sub> )	100 µg/m <sup>3</sup>	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m <sup>3</sup>	(Maximum arithmetic mean averaged over a calendar quarter)

1. The contribution of any contaminant by a single source property shall be measured as the difference between the upwind level and the downwind level for the property, using methods approved by the administrative authority, or by the use of suitable engineering techniques such as source dispersion calculations.

2. National primary ambient air quality standards define levels of air quality that the administrator of the Environmental Protection Agency judges to be necessary, with an adequate margin of safety, to protect the public health.

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM <sub>10</sub>	150 µg/m <sup>3</sup>	(Maximum 24-hour concentration not to be exceeded more than once per year)
Sulfur Dioxide (SO <sub>2</sub> )	1,300 µg/m <sup>3</sup>	(Maximum 3-hour concentration not to be exceeded more than once per year)
PM <sub>2.5</sub>	15.0 µg/m <sup>3</sup>	(Annual arithmetic mean)
	35 µg/m <sup>3</sup>	24-hour
Carbon Monoxide (CO)	10,000 µg/m <sup>3</sup>	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m <sup>3</sup>	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO <sub>2</sub> )	100 µg/m <sup>3</sup>	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m <sup>3</sup>	(Maximum arithmetic mean averaged over a calendar quarter)

1. The contribution of any contaminant by a single source property shall be measured as the difference between the upwind level and the downwind level for the property, using methods approved by the administrative authority, or by the use of suitable engineering techniques such as source-dispersion calculations.

2. National secondary ambient air quality standards define levels of air quality that the administrator of the Environmental Protection Agency judges to be necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

C. Table 2. Ambient Air—Methods of Contaminant Measurement

Table 2. Ambient Air—Methods of Contaminant Measurement		
Air Contaminant	Sampling Interval	Analytical Method
PM <sub>10</sub>	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix J.
PM <sub>2.5</sub>	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix L.

Table 2. Ambient Air—Methods of Contaminant Measurement		
Air Contaminant	Sampling Interval	Analytical Method
Sulfur Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix A.
	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 53, Subpart B.
Total Oxidants	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix D, and Part 53, Subpart B.
Carbon Monoxide	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix C, and Part 53, Subpart B.
Nitrogen Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix F.
Lead	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1602 (September 2006), LR 34:433 (March 2008).

Herman Robinson, CPM  
Executive Counsel

0803#033

**RULE**

**Office of the Governor  
Board of Examiners of Shorthand Reporters**

Fees (LAC 46:XXI.901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters, has amended 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 \$90 with one stamp, \$105 with two stamps, and \$120 with three stamps.

2. The fee to be paid upon the issuance and renewal of the certificate of registration is \$90 with one stamp, \$105 with two stamps, and \$120 with three stamps.



3. The fee to be paid for the purchase of a list of names and addresses of current reporters is \$25.

4. The fee to be paid for the reinstatement of a suspended or revoked certificate is the payment of all delinquent fees, plus \$15.

5. 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 \$75.

6. The fee to be paid for the qualifying test of Q and A at 225 wpm is \$50.

7. The fee to be paid for an NSF check issued to the board is \$15.

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).

Judge Guy P. Holdridge  
Chairman

0803#013

## RULE

### Office of the Governor Capital Area Ground Water Conservation Commission

#### Pumpage Fees (LAC 56:V.1107)

The Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the Parishes of East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, will increase the pumping charges for ground water users effective April 1, 2008. The board has determined that this increase is necessary to meet the increased costs for district operations. This action is in accordance with R.S. 38:3076(14) and 38:3079.

#### Title 56

### PUBLIC WORKS

#### Part V. Capital Area Ground Water Conservation Commission

#### Chapter 11. Determination of and Payment of Accounts

#### §1107. Pumpage Fee

A. The pumping charges for ground water users shall be \$4 per million gallons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 1975), amended LR 10:592 (August 1984) effective January 1, 1985, repromulgated LR 33:2649 (December 2007), LR 34:435 (March 2008), effective April 1, 2008.

Don C. Dial  
Director

0803#006

## RULE

### Office of the Governor Recreational and Used Motor Vehicle Commission

#### Recreational Products Trade Show (LAC 46:V.Chapters 30 and 36)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 4-C, the Office of the Governor, Recreational and Used Motor Vehicle Commission, notice is hereby given that the Recreational and Used Motor Vehicle Commission has repealed current rules and regulations governing Chapter 36 and has adopted rules and regulations governing Chapter 30.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part V. Automotive Industry

#### Subpart 2. Recreational and Used Motor Vehicles

#### Chapter 30. Recreational Products Trade Show; Definitions, License Fees and Applications; Violations and Regulation

#### §3001. Definitions

*Display Permit*—a temporary license issued to a nonresident exhibitor, to display recreational products at a trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

*Local Trade Show*—a trade show in which the promoter's initial invitation is limited to Louisiana-licensed dealers within a 30-mile radius around the show location.

*Nonresident Exhibitor*—a nonresident dealer or manufacturer of recreational products who holds a current dealer or manufacturer license in another state and whose Louisiana business is limited to participation in trade shows or expositions in this state.

*Promoter*—any person, firm, association, corporation, partnership, limited liability company or trust, who alone or with others assumes the financial responsibility of a recreational products trade show or exposition in which recreational products are displayed by licensed dealers, manufacturers or distributors, or exhibitors as provided herein.

*Recreational Products*—any new or used recreational vehicle, motorcycle, ATV, or marine product.

*Regional Trade Show*—a trade show in which the promoter's initial invitation is only limited to Louisiana-licensed dealers and whose subsequent invitations may include any nonresident exhibitor who will display and show any product not displayed or shown by a Louisiana-licensed dealer.

*Trade Show*—a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which three or more recreational products dealers exhibit vehicles.

*Trade Show Permit*—a temporary license issued to a promoter to perform a recreational products trade show.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 783(F)(7).

HISTORICAL NOTE: Promulgated by the office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:435 (March 2008).

### **§3002. License Fees and Applications**

A. Promoters of recreational products trade shows shall be required to obtain a license from the commission and its request for license shall consist of the following:

1. the application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$100;

3. a promoter's license shall be for one calendar year and shall expire on December 31.

B. A promoter shall also be required to obtain a trade show permit from the commission and its request for a permit shall consist of:

1. the identity of at least three participants, the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted at the trade show;

2. an official designation as to whether the trade show is a regional trade show, with proof supporting that the show facilities have adequate space to host the type of show being permitted;

3. a fee of \$500 per regional trade show;

4. a fee of \$200 per local trade show.

C. A nonresident exhibitor shall be required to provide the following documents to the commission to obtain a display permit to display recreational products in a trade show:

1. an oath or affirmation that the nonresident exhibitor has complied with all registration requirements of the state in which he conducts his business including any requirements pertaining to posting of bond and demonstration of fiscal responsibility;

2. a notarized copy of the dealer's or manufacturer's current license issued in the state in which he conducts his business;

3. the name, site, and dates of the show or exposition for which a nonresident exhibitor's permit is sought and the name and address of the promoter of that show or exposition;

4. such other pertinent information consistent with the safeguarding of the public interest and public welfare;

5. an application fee of \$100.

D. A Louisiana-licensed recreational products dealer who participates in a recreational products show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

E. All applications to the commission for display permits received within five days of that start of the trade show or exposition shall be charged a \$50 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission LR 34:436 (March 2008).

### **§3003. Order of Preference and Priority**

A. The following order of preference shall be observed by the promoter in arranging a regional trade show.

1. The promoter shall first contact all Louisiana-licensed dealers who sell the type of vehicles being promoted, and those Louisiana-licensed dealers who accepted the invitation to attend the show shall exclude all nonresident exhibitors from displaying or showing the particular line of recreational products that they are displaying at the show or exposition. The acceptance of an invitation by a Louisiana-licensed dealer shall be expressed as a signed contract for space and accompanied by any deposits required by the show promoter and shall be performed within a reasonable time following the invitation as required by the promoter.

2. The promoter may then invite any nonresident exhibitor to attend the show or exposition to display and show any product not displayed or shown by a Louisiana-licensed dealer.

B. The following order of preference shall be observed by the promoter in arranging a local trade show.

1. The promoter shall first contact all Louisiana-licensed dealers who sell the type of vehicles being promoted, starting within a 30-mile radius of the proposed show or exposition, and those Louisiana-licensed dealers within a 30-mile radius to the show who accepted the invitation to attend the show shall exclude all other dealers from outside of 30 miles from displaying or showing the particular line of recreational products that they are displaying at the show or exposition.

2. The promoter may invite but shall accept any requests from a Louisiana-licensed dealer, who is not excluded by the provision above and is beyond 30 miles to attend a show or exposition, and those Louisiana-licensed dealers who attend the show shall exclude all nonresident exhibitors from displaying or showing the particular line of recreational products that they are displaying at the show or exposition.

3. The promoter may then invite any nonresident exhibitor to attend the show or exposition to display and show any product not displayed or shown by a Louisiana-licensed dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 783 (F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:436 (March 2008).

### **§3004. Violations**

A. It shall be unlawful and shall constitute a violation of this Chapter:

1. for a recreational products dealer or a non resident exhibitor to display or show recreational products at any trade show except as allowed in §3003 above;

2. for a nonresident exhibitor to display or show recreational products at a trade show without first obtaining a display permit;

3. for a promoter:

a. to knowingly allow any dealer or nonresident exhibitor to display recreational products in any manner other than what is allowed in §3003 above;

b. to knowingly allow any dealer or nonresident exhibitor of recreational vehicles to display or show any line of recreational vehicles offered by any licensed recreational vehicle dealer whose franchise area includes the location of the trade show, unless the recreational vehicle dealer whose franchise territory includes the location of the trade show consents to the display;

c. to knowingly allow a nonresident exhibitor to display or show recreational products without having a display permit;

d. to fail to keep all records of attending dealers and sufficient and reasonable proof of the required invitations to dealers and proof that dealers who have declined to attend a trade show or exposition for a period of three years;

e. to allow a manufacturer or distributor, other than a nonresident exhibitor, to exhibit vehicles in any manner other than through a licensed dealer;

f. to fail to provide to the commission 10 days prior to the trade show a complete list of all dealers participating in the trade show;

4. for a licensed recreational products dealer or nonresident exhibitor to complete a sales transaction (by accepting the purchase funds, completing the paperwork and/or delivering product) for any recreational products at a trade show. Said restriction shall not apply or extend to sales and price negotiation, accepting deposits, setting closing dates, or completing a buyer's order;

5. for a licensed recreational vehicle dealer to knowingly display at a trade show the same line of recreational vehicles as displayed by a licensed recreational vehicle dealer whose franchise territory includes the location of the trade show, unless the recreational vehicle dealer whose franchise territory includes the location of the trade show consents to the display;

6. for a licensed recreational vehicle manufacturer or distributor to exhibit recreational vehicles at a trade show in any manner other than through a licensed dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:436 (March 2008).

### **§3005. Miscellaneous Provisions; Enforcement**

A. If a recreational vehicle trade show is being held in a location where the same line makes or models of recreational vehicles does not have a dealer with a franchise territory, it shall be the manufacturer's responsibility to determine which licensed dealer(s) will represent that same line makes or models at the trade show.

B. The commission shall have authority to issue any orders necessary to enforce the provisions of this Section, including the entry of a cease and desist order which may be enforced in any proper venue including the parish of East Baton Rouge.

C. In addition to the enforcement of any necessary orders, the commission may suspend or revoke any license and/or it may impose a penalty in accordance with R.S. 32:788. In such cases, the affected licensee will be given all notices, opportunity to be heard and rights to appeal as conferred in R.S. 32:785.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:437 (March 2008).

### **§3006. Off-Site Displays—Marine Products**

A. The commission must approve all off-site displays of new marine products. A request for an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any off-site display must be within the dealer's defined area of responsibility or within his manufacturer's contracted agreement for the make and mode to be displayed.

C. The licensee participating in an off-site display of his product is not required to contract all dealers within a 50 mile radius.

D. Each off-site display of marine products is limited to:

1. one marine dealer;

2. nine days and four displays a year. An off-site display of marine products will be permitted at the same location every six months.

E. The number of vehicles at any off-site display of marine products will be left to the discretion of the commission, with a maximum of 20 vehicles per licensee, per display.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, marine products cannot be delivered from that off-site display location.

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:814(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. A licensee must furnish a liability insurance binder to the owner of the off-site property. The same liability binder with the off-site property and owner listed must be furnished to the commission with the Off-Site Display Form.

I. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), LR 34:437 (March 2008).

## **Chapter 36. Recreational Products Trade Shows**

### **Subchapter A. Recreational Products**

#### **§3601. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783 (F) (7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), repealed LR 34:437 (March 2008).

#### **§3603. License, Fees and Applications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts

Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:437 (March 2008).

**§3605. Qualifications and Eligibility of Recreational Products Trade Shows**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:438 (March 2008).

**Subchapter B. Motor Vehicle Trade Shows and Off-Site Displays**

**§3606. Off-Site Displays—Marine Products**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:438 (March 2008).

**§3607. Off-Site Displays—Motorcycles, ATV's and RV's**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1).

HISTORICAL NOTE: Promulgated by the Office of Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:438 (March 2008).

John M. Torrance  
Executive Director

0803#026

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

Medical Professionals; Practice  
(LAC 46:XLV.4231-4239)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Medical Practice Act, R.S. 37:1261-92, R.S. 37:1309, the Louisiana State Board of Medical Examiners has amended Title 46:XLV, Subpart 3, Chapter 42 of its existing Rules governing illegal payments to adopt Rules implementing and providing for enforcement, with respect to physicians, of Act 819, adopted in 2006 by the Louisiana Legislature, enacting R.S. 37:1306-1310. The Rule is set forth below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 3. Practice**

**Chapter 42. Illegal Payments; Required Disclosure of Financial Interests; Prohibition on Rural Physician Self-Referral**

**Subchapter C. Prohibition on Rural Physician Self Referral**

**§4231. Scope and Purpose of Chapter**

A. Scope of Chapter. The rules of this Chapter implement enforcement of R.S. 37:1308, which prohibits physician referral of health care services to a healthcare facility, located within the primary service area of a rural hospital, in which the referring physician or an immediate family member of the referring physician maintains a direct or indirect ownership interest.

B. Declaration of Purpose. Interpretation and Application. Rural hospitals are an essential part of the healthcare delivery system in this state. For many, rural hospitals and the full time emergency room services they offer provide the only healthcare services readily available. The development of healthcare facilities that duplicate services in the primary service areas of rural hospitals endangers their continued existence by reducing revenue and potentially leading to the closure or reduction of access to hospital and emergency room services. The purpose of these rules and the laws they implement is to encourage innovative collaboration between and among rural hospitals and physicians in the delivery of services in rural areas. These rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:438 (March 2008).

**§4233. Definitions and Construction**

A. Definitions. As used in this Chapter the following terms shall have the following meanings unless the context requires otherwise.

*Board*—the Louisiana State Board of Medical Examiners.

*Commercially Reasonable Terms and Conditions*—those terms and conditions that would be reasonable to a prudent individual operating a business of similar type and size as a rural hospital even in the absence of referrals to the rural hospital or healthcare facility by a physician who owns, or whose immediate family member owns, an interest in the healthcare facility in which the rural hospital has been offered the opportunity to participate as an owner. The provisions of 42 U.S.C. 1395nn, and the regulations and regulatory guidance promulgated and issued by the Centers for Medicare and Medicaid Services and its predecessor or successor, shall be considered in determining whether terms and conditions are commercially reasonable.

*Department*—the Louisiana Department of Health and Hospitals.

*Healthcare Facility*—an independent diagnostic testing facility, magnetic resonance imaging equipment or facility, computerized tomography equipment or facility, Positron Emission Tomography scanner or facility, an ambulatory surgical center licensed by the department, or any outpatient surgical facility required to be licensed by the department as an ambulatory surgical center in order to obtain certification by Medicare as an ambulatory surgical center. However, the term *healthcare facility* shall not mean:

a. a rural hospital that existed on April 1, 2006, or that replaces a rural hospital that existed on April 1, 2006;

b. a rural hospital that is a replacement facility of a rural hospital that was damaged by Hurricane Rita or Hurricane Katrina;

c. an entity owned or operated by the state of Louisiana or the United States;

d. a physician's practice or a physician group practice, when such practice is owned and operated exclusively by physicians for the purpose of providing healthcare services and is not licensed or Medicare-certified as a rural health clinic;

e. any facility under development, including services provided by a mobile unit that is part of an existing facility as of April 1, 2006, or operating as of April 1, 2006. A facility shall be considered under development if:

i. a representative of the facility has, prior to April 1, 2006, filed a license application with the department for the establishment of the proposed healthcare facility;

ii. the facility can demonstrate that a minimum of \$25,000 in architectural or engineering expenses have been incurred in connection with the proposed facility prior to April 1, 2006; or

iii. the facility has received a certificate of occupancy; or

f. any community health care clinic or rural health clinic.

*Healthcare Services*—magnetic resonance imaging services, computerized tomography services, Positron Emission Tomography scanner services, ultrasound services, any other imaging services that have become generally accepted methods of providing imaging services after April 17, 2006, as determined by the department, any services rendered by an ambulatory surgical center licensed by the department, or any services rendered by an outpatient surgical facility required to be licensed by the department as an ambulatory surgical center in order to obtain certification by Medicare as an ambulatory surgical center.

*Immediate Family Member*—husband or wife, birth or adoptive parent, child, or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, grandparent or grandchild, and spouse of grandparent or grandchild.

*Primary Service Area*—the smaller of either a radius of twenty-five miles from a rural hospital's main campus or the area represented by the number of postal zip codes, commencing with the rural hospital's zip code, in which seventy-five percent of a rural hospital's patients reside, as determined by using data derived from the hospital's most recent twelve month Medicare cost reporting period. In

determining the primary service area, each outpatient encounter and each inpatient stay shall be viewed as a separate patient, and the zip code attributable to the patient shall be the zip code of the patient at the time of the inpatient stay or outpatient encounter. Primary service area descriptions published by the department in the *Louisiana Register* shall be utilized in determining primary service areas. However, the term *primary service area* shall not include the cities of Alexandria, Baton Rouge, Bossier City, Covington, Hammond, Houma, Kenner, Lafayette, Lake Charles, Mandeville, Monroe, New Iberia, New Orleans, Opelousas, Ponchatoula, Ruston, Shreveport, Slidell, Thibodaux, or West Monroe.

*Proposing Party*—a person or entity that offers to enter into a joint venture with a rural hospital as well as any person or entity related to the proposing party by common ownership or control as such terms are defined for purposes of 42 C.F.R. 413.17, or its successor provision.

*Rural Hospital*—shall be defined as provided for in R.S. 40:1300.143, as such law existed on April 1, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:438 (March 2008).

#### **§4235. Physician Prohibitions**

A. Except as provided in §4337 of this Subchapter, no physician shall make a referral to any healthcare facility for the receipt of healthcare services in which the referring physician or an immediate family member of the referring physician maintains a direct or indirect ownership interest. The prohibition contained in this Section shall only apply if both of the following conditions are met:

1. the physician provides professional medical services within the primary service area of a rural hospital; and

2. the healthcare facility in which the physician or any immediate family member of the physician maintains a direct or indirect ownership is located within the primary service area of any rural hospital.

B. No physician who refers a patient to a healthcare facility in contravention of this Section shall bill any patient, third party payer, or any other entity for healthcare services provided by the physician to the patient at the time during which the referral was made in violation of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:439 (March 2008).

#### **§4237. Exceptions**

A. The prohibitions contained in Section 4235 of this Subchapter shall not apply to healthcare services furnished by a healthcare facility provided that:

1. the rural hospital in whose primary service area such facility is located is offered the option to participate in the ownership of the healthcare facility on commercially reasonable terms and conditions that are conveyed in a written offer by the proposing party;

2. the offer is priced commensurate with the interest offered, whether such purchase price is in the form of cash or debt, and the interest offered is not less than a majority interest in the healthcare facility;

3. the rural hospital accepts or rejects the offer in writing within ninety days of receipt from the proposing party after being provided an opportunity to review the following with respect to the proposed healthcare facility:

- a. a bona fide business plan, including a financial feasibility study;
- b. pro forma income and balance sheets; and
- c. a sources and uses of funds analysis;

4. the closing of the acquisition of the ownership interest occurs within ninety days of written acceptance of the offer unless delayed by mutual consent of the rural hospital and proposing party; and

5. the rural hospital and proposing party act in good faith in accordance with the requirements of Civil Code Article 1759.

B. The prohibitions contained in Section 4235 of this Subchapter shall not be applicable until and unless *primary service area descriptions* are published in the *Louisiana Register* in accordance with R.S. 37:1309B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:439 (March 2008).

#### §4239. Effect of Violations; Sanctions

A. Any violation or failure of compliance with the provisions of this Subchapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285, providing cause for the board to suspend the license of a physician culpable of such violation or take such other action as the board may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:440 (March 2008).

Robert L. Marier, M.D.  
Executive Director

0803#015

### RULE

#### Department of Health and Hospitals Board of Nursing

##### Continuing Education—Nursing Practice (LAC 46:XLVII.3335)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3335, Continuing Education—Nursing Practice in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Rule relative to Continuing Education—Nursing Practice revises the unit of measurement (contact hour) for participation in an educational activity which meets the board's continuing education criteria from 50 minute to 60 minute time period for 1 contact hour. This change is being recommended to be consistent with the American Nurses Credentialing Center's (ANCC) Commission on Accreditation's criteria which uses 60 minute unit of measurement for awarding contact hour credit effective

January 1, 2007. This change is also consistent with the physician's regulatory group, the Accreditation Council for Continuing Medical Education (ACCME).

### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

##### Part XLVII. Nurses

##### Subpart 2. Registered Nurses

##### Chapter 33. General

##### Subchapter C. Registration and Registered Nurse Licensure

##### §3335. Continuing Education—Nursing Practice

A. Authority of the Louisiana State Board of Nursing (board). The board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a registered nurse from R.S. 37:911, R.S. 37:918(4) and (12), and R.S. 37:920.E (1), (2), and (4).

B. Definitions for the Purposes of §3335

*Accredited Post Secondary Institution*—a degree granting institution that conducts a program preparing registered nurses and awards degrees at any or all of the following levels: associates, bachelors, masters, and doctoral, and which is accredited by a nationally recognized accrediting body.

*Approved Offering*—a continuing education offering provided by an approved provider.

*Approved Provider*—individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency which has been approved by the board, accredited by the American Nurses Credentialing Center's Commission on Accreditation (ANCC), or approved to provide nursing continuing education by an ANCC accredited approver.

*Board-Approved Contact Hours*—contact hours which have been approved by the board or through the ANCC.

*Clinical Competence*—the possession and use of professional knowledge and skills in relation to direct patient/client care.

*Certifying Body*—an agency qualified to evaluate an individual, an institution, or an educational program and attesting that certain predetermined standards for safe and ethical practice of the profession or service are met.

*Competence*—the possession of professional knowledge and skills necessary to practice or function at the legally qualified level.

*Contact Hour*—a unit of measurement that describes 60 minutes of participation in an educational activity which meets the board's continuing education criteria.

*Continued Competence*—the possession and maintenance of current professional knowledge and skills.

*Continuing Education*—a planned educational activity designed to update the knowledge and skills of the participant, beyond the entry level, or to prepare for practice in a different area of nursing.

*Continuing Education Activities*—

a. *Course*—an intense, planned educational activity, presented over time, which includes content related to a specific subject for which academic credit or contact hours are awarded.

b. *Offering*—a continuing education activity of short duration for which a minimum of one contact hour is awarded.

c. *Program*—a series of offerings with a common theme and common overall goals. Offerings may occur consecutively or concurrently.

*Criterion*—a standard, rule, or test by which something can be judged, measured, or valued.

*Current*—occurring in the present time; contemporary.

*Documentation of Nursing Practice*—the presence of written evidence of nursing practice.

*Examination*—an exercise designed to evaluate progress, qualifications, or knowledge.

*Full-Time Nursing Practice*—a minimum of 1,600 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

*Inactive Licensure Status*—is recorded when the RN requests inactive licensure status rather than renew a current RN license.

*Lapsed License*—delinquent licensure status due to failure to renew or to request inactive licensure status.

*National Council Licensure Examination for Registered Nurses (NCLEX-RN)*—the examination approved by the board and administered to measure competency for initial licensure as a registered nurse.

*Nursing Practice*—the performance, with or without compensation, by an individual licensed by the board as a registered nurse, of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences [Nurse Practice Act, R.S. 37:913 (13) and (14)], which includes, but is not limited to, direct patient care, supervision, teaching, administration, and other positions which require use of nursing knowledge, judgment, and skill.

*Part-Time Nursing Practice*—a minimum of 160 hours employment as a registered nurse, but less than full-time employment within the one-year audit period.

*Practice Hour*—60 minutes of nursing practice.

*Refresher Course*—instruction designed to update professional knowledge and skills to the legally qualified level.

*Requirement*—something needed or demanded by virtue of a law, regulation, etc.

C. - J.5 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4), (12), and R.S. 37:920.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), amended LR 21:267 (March 1995), LR 21:804 (August 1995), LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 26:83 (January 2000), LR 27:729 (May 2001), LR 34:440 (March 2008).

Barbara L. Morvant  
Executive Director

0803#045

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Hospice—Payment Rates (LAC 50:XV.4305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.4305 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 3. Hospice

#### Chapter 43. Reimbursement

##### §4305. Hospice Payment Rates

A. The payment rates for each level of care will be the Medicaid hospice rates that are calculated by using the Medicare hospice reimbursement methodology but adjusted to disregard cost offsets attributable to Medicare deductible and coinsurance amounts. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

A.1. - A.2.d.ii. ...

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 28:1470 (June 2002), amended LR 34:441 (March 2008).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Alan Levine  
Secretary

0803#078

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Pregnant Women Extended Services—Dental Services (LAC 50:XV.16105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended

LAC 50:XV.16105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 13. Pregnant Women Extended Services**

**Chapter 161. Dental Services**

**§16105. Covered Services**

A. The following dental services are covered for Medicaid eligible pregnant women 21 years of age or older:

1. comprehensive periodontal evaluation—new or established patient;
2. intraoral—periapical first film;
3. intraoral—periapical each additional film;
4. intraoral—occlusal film;
5. bitewings, two films;
6. panoramic film;
7. prophylaxis—adult;
8. amalgam, one surface, primary or permanent;
9. amalgam, two surfaces, primary or permanent;
10. amalgam, three surfaces, primary or permanent;
11. amalgam, four or more surfaces, permanent;
12. resin-based composite, one surface, anterior;
13. resin-based composite, two surfaces, anterior;
14. resin-based composite, three surfaces, anterior;
15. resin-based composite, four or more surfaces or involving incisal angle, anterior;
16. resin-based composite crown, anterior;
17. prefabricated stainless steel crown, permanent tooth;
18. prefabricated resin crown;
19. pin retention, per tooth, in addition to restoration;
20. periodontal scaling and root planning—four or more contiguous teeth or bounded teeth spaces per quadrant;
21. full mouth debridement to enable comprehensive evaluation and diagnosis;
22. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
23. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
24. removal of impacted tooth, soft tissue; and
25. removal of impacted tooth, partially bony.

B. Prior authorization is required for designated covered services as identified in the Expanded Dental Services for Pregnant Women Program fee schedule on file.

**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 LR 34:442 (March 2008).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Alan Levine  
Secretary

0803#079

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

**Genetic Diseases—Newborn Heel Stick Screening  
(LAC 48:V.6303)**

The Department of Health and Hospitals, Office of Public Health amended LAC 48:V.6303, A., C., D., and G.

The Rule updates the newborn screening panel as listed in LAC 48:V.6303 to assure it is consistent with Act 2006, No. 754, which required screening for an additional 17 metabolic disorders, congenital adrenal hyperplasia and cystic fibrosis. The Rule also includes other requirements necessary for ensuring proper laboratory testing, follow-up and reporting.

The Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit as the Rule will reflect the pertaining legislation that requires all Louisiana newborns to be screened for these additional genetic diseases. If untreated, all of these additional diseases cause severe disability and the complications with some of them can be fatal.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part V. Public Health Services**

**Subpart 19. Genetic Diseases Services**

**Chapter 63. Newborn Heel Stick Screening**

**§6303. Purpose, Scope Methodology**

A. R.S. 40:1299.1.2.3, requires physicians to test Louisiana newborns for the disorders listed below along with the abbreviations used by the American College of Medical Genetics (ACMG).

1. Disorders of amino acid metabolism:
  - a. Phenylketonuria (PKU);
  - b. Maple Syrup Urine Disease (MSUD);
  - c. Homocystinuria (HCY);
  - d. Citrullinemia (CIT);
  - e. Argininosuccinic Aciduria (ASA);
  - f. Tyrosinemia type I (TYR I).
2. Disorders of fatty acid metabolism:
  - a. Medium Chain Acyl-CoA dehydrogenase Deficiency (MCAD);
  - b. Trifunctional protein deficiency (TFP);
  - c. Very Long-Chain Acyl-CoA Dehydrogenase Deficiency (VLCAD);
  - d. Carnitine Uptake Defect (CUD);
  - e. Long Chain-3-Hydroxy Acyl-CoA Dehydrogenase Deficiency (LCHAD).
3. Disorders of organic acid metabolism:
  - a. Isovaleric Acidemia (IVA);
  - b. Methylmalonic Acidemia (MUT),(CBL A, B);
  - c. Glutaric Acidemia Type 1 (GA1);
  - d. Propionic Aciduria (PROP);
  - e. 3-Hydroxy-3-Methylglutaryl-CoA Lyase(HMG);
  - f. Multiple Carboxylase Deficiency (MCD);
  - g.  $\beta$ -Keto thiolase Deficiency (BKT);
  - h. 3-Methylcrotonyl CoA Carboxylase Deficiency (3MCC).



4. Other metabolic disorders:
  - a. Biotinidase Deficiency (BIOT);
  - b. Galactosemia (GALT).
5. Endocrine disorders:
  - a. Congenital Hypothyroidism (CH);
  - b. Congenital Adrenal Hyperplasia (CAH).
6. Hemoglobinopathies (Sickle Cell diseases):
  - a. SS disease (Sickle Cell Anemia) (Hb SS);
  - b. SC disease (Hb SC);
  - c. S/Beta Thalassemia (Hb S/ $\beta$ TH);
  - d. Other sickling diseases.
7. Pulmonary disorders:
  - a. Cystic Fibrosis (CF).

B. ...

**C. Policy for Pre-Discharge, Repeat Screening and Education to Parents on Repeat Screening**

1. Pre-Discharge Screening. All hospitals that have maternity units shall institute and maintain a policy of screening all newborns before discharge regardless of their length of stay in the hospital. Newborns remaining in the hospital for an extended period should be screened initially no later than seven days after birth.

2. Repeat Screening for Specimens Collected before 24 Hours. There is a greater risk of false negative results for specimens collected from babies younger than 24 hours of age. Therefore, newborns screened prior to 24 hours of age must be rescreened at the first medical visit, preferably between one and two weeks of age, but no later than the third week of life. Repeat screening should be arranged by the primary pediatrician; however, it may be done by any primary healthcare provider or clinical facility qualified to perform newborn screening specimen collection.

3. Education to Parents on Repeat Screening. To ensure that newborns who need rescreening (due to initial unsatisfactory specimen or an initial collection performed on a baby less than 24 hours old) actually receive the repeat test, hospitals with maternity units must establish a system for disseminating information to parents about the importance of rescreening.

**D. Notification of Screening Results**

1. The Genetic Diseases Program follow-up staff notify the appropriate medical provider of the positive screening result by telephone. Otherwise, submitters should receive the result slip from the State Public Health Laboratory within two weeks after collection. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with Fax (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at (504) 219-4413. If results are not available, medical providers may fax in their requests to the following numbers: (504) 219-4694 (Public Health Biochemistry Laboratory) or (504) 219-4452 (Genetics Office). To assist the pediatrician's office in the retrieval of the results on the initial specimen of the infant at the first medical visit, the phlebotomist or nurse collecting the initial specimen should tear off the blue carbon of the Lab-10 form and give this to the parent. The parent should be instructed to bring this copy to the first medical visit.

E. - F. ...

**G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not**

Using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for the disorders listed in Subpart A above.

2. - 4. ...

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
Disorders of Amino Acid Metabolism Disorders of Fatty Acid Metabolism Disorders of Organic Acid Metabolism (Specific disorders include those as listed under part A)	Tandem Mass Spectrometry (MS/MS)
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorimetric or Fluorometric
Galactosemia	Galt enzyme assay Total Galactose
Hemoglobinopathies (Sickle Cell Diseases)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) DNA Mutational Analysis Sickle Dex - NOT Acceptable Controls must include: F, A, S, C, D, E If controls for hemoglobins D and E are not included in the 1st tier testing methodology, then the 2 <sup>nd</sup> tier testing must be able to identify the presence of these hemoglobins. Result Reporting: by phenotype Positive/negative is NOT acceptable
Congenital Hypothyroidism	Radioimmunoassay (RIA), Fluorescent Immunoassay (FIA), Enzyme Immunoassay (EIA) methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Congenital Adrenal Hyperplasia	17 hydroxyprogesterone (17OHP)
Cystic Fibrosis	Primary: Immunoreactive Trypsinogen; Second Tier: DNA Qualitative Sweat Conductivity Test is NOT acceptable as a primary screening methodology.  Confirmatory Test Methodologies: Quantitative Pilocarpine Iontophoresis Sweat Chloride Test Qualitative Sweat Conductivity Test is NOT recommended.
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an in-house validation study of said methodology.	

6. - 7. ...

**8. Mandatory Reporting of Positive Test Results Indicating Disease**

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office by fax at (504) 219-4452. Receipt

of faxed results must be verified by call to the Genetics Office at (504) 219-4413.

b. Described below are specific time deadlines after data reduction and interpretation for reporting positive results indicating probable disease to the Genetics Office. Laboratories must make arrangements with the Genetics Office for reporting after hours, weekends and holidays for positive results from tandem mass spectrometry and the assays for galactosemia, congenital adrenal hyperplasia and congenital hypothyroidism. Notification of presumptive positive results for biotinidase deficiency, sickle cell disease and cystic fibrosis will be made at the beginning of the next business day.

i. Metabolic disorders identified by tandem mass spectrometry and for galactosemia—report results by 2 hours.

ii. Biotinidase Deficiency—report results within 24 hours.

iii. Sickle Cell Disease—report results of FS, FSC, FSA from initial specimens within 24 hours.

iv. Congenital Hypothyroidism—report within 24 hours.

v. Congenital Adrenal Hyperplasia—report within 2 hours.

vi. Cystic Fibrosis—report within 24 hours.

8.c. - 11. ...

H. The Newborn Heel Stick Screening Policy for Result Reporting and Repeat Screening Post Transfusion

1. Whenever possible, a specimen should be collected prior to transfusion.

2. Repeat testing recommended: 3 days after transfusion and 90 days after last transfusion.

3. If the specimen was not collected before transfusion, the laboratory reporting the results to the submitter must indicate that transfusion may alter all newborn screening results and include the above times for repeat screening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003), LR 32:248 (February 2006), LR 34:442 (March 2008).

Alan Levine  
Secretary

0803#036

## **RULE**

### **Department of Health and Hospitals Office of Public Health**

#### **Prevention and Control of Yellow Fever (LAC 51:II.905)**

The Department of Health and Hospitals, Office of Public Health amends (LAC 51, Part II, Chapter 9, §905.A.7). The Rule changes the storage requirements as listed in LAC 51,

Part II, Chapter 9, §905.A.7 to assure The Rule change provides that certified yellow fever vaccine centers in Louisiana must store the vaccine at refrigeration temperatures [between 2°- 8°C (35°- 46°F)] until used. The previous requirement and the requirement in the present Sanitary Code is that the vaccine must be kept frozen until used. This action is required by the change in the storage requirement of Yellow Fever Vaccine issued by the vaccine manufacturer in April 2005 and approved by the United States Food and Drug Administration.

## **Title 51**

### **PUBLIC HEALTH—GENERAL**

#### **Part II. Control of Diseases**

#### **Chapter 9. Prevention and Control of Yellow Fever**

#### **§905. Yellow Fever Regulations**

A. - A.6. ...

7. "The Center must maintain adequate refrigeration to assure that the yellow fever vaccine will be kept in a refrigerated state with temperatures as recommended by the vaccine manufacturer and included in the storage recommendations of the vaccine package insert. Once the vaccine has been removed from refrigeration and reconstituted, it must be administered within 60 minutes. Any remaining unrefrigerated and unused vaccine must be destroyed."

8. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5 and further in full cooperation with the United States Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 34:444 (March 2008).

Alan Levine  
Secretary

0803#035

## **RULE**

### **Department of Health and Hospitals Office of Public Health Center for Environmental Health Services**

Marine and Freshwater Animal Food Products  
(LAC 51:IX.127, 145, 319, 321, and XXIII.1109)

The state health officer acting through the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, pursuant to the authority in R.S. 40:4(A)(1), R.S. 40:4(A)(6), R.S. 40:5, and R.S. 40:5.3, has amended Title 51, Part IX (Marine and Fresh Water Animal Food Products), and Title 51 Part XXIII (Retail Food Establishments). The adoption of an equivalent consumer advisory statement from the U.S. Food and Drug Administration (FDA) 2005 Food Code shall be provided when shellstock is intended for raw consumption and shall coincide with the National Shellfish Sanitation Program (NSSP) 2005 Model Ordinance. The NSSP is the federal/state cooperative program recognized by the FDA and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. Technical changes to the Sanitary Code are being made in Sections 127 and 321 of Part IX.

**Title 51**  
**PUBLIC HEALTH—SANITARY CODE**  
**Part IX. Marine and Fresh Water**  
**Animal Food Products**

**Chapter 1. Shellfish Growing Areas**

**§127. Qualification for Laboratories Conducting Analysis of Shellfish Growing Waters for the Louisiana State Shellfish Sanitation Program [formerly paragraph 9:002-13]**

A. - G. ...

H. The following constitute minimal quality assurance procedure requirements for the laboratory.

1. - 12. ...

13. Glass/mercury thermometer calibration should be checked quarterly against a reference National Institute of Standards and Technology (NIST) thermometer or one which meets the requirements of NIST monograph 150.

14. - 17. ...

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 28:1297 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008).

**§145. Permits Required for Transplanting [formerly paragraph 9:004-2]**

A. ...

1. No permittee or boat captain may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish within three years of the application date; provided, however that said permittee or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. - 12. ...

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 28:1300 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008).

**Chapter 3. Preparation and Handling of Seafood for Market**

**§319. Seafood (Except Shellstock) Shipping Requirements [formerly paragraph 9:042]**

A. - C. ...

D. [Formerly paragraph 9:045] All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at the point of sale with either of the following wording:

1.a. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED"; or

b. "CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS."

D.2. - F. ...

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 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008).

**§321. Shipping Shell-Stock Requirements [formerly paragraph 9:047]**

A. - B. ...

C. [Formerly paragraph 9:049] Bulk shipments of shell-stock by boat may be made in cases where the tongers or dredgers obtain the shellfish directly from growing areas and sell them to various consumers direct without shucking. Where shell-stock is shipped by boat for the shell trade, it shall be labeled as specified in §319. If shellfish shipped by boat are intended for processing in shucking houses, records shall be kept by the boat operator in a book provided for such purposes only, showing the sources and quantity of shellfish, date and local waters where the shellfish were taken, license or certificate number of person or persons from to whom sold. These records shall be retained for 12 months.

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 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008).

**Part XXIII. Retail Food Establishments**

**Chapter 11. Food Supplies**

**§1109. Raw Shellfish Consumer Information Message [formerly paragraph 22:08-5.1]**

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with either of the following wording:

1. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED"; or

2. "CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS."

B. In addition, either of the above messages in Subsection A of this Section must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

C. In addition, one of the following messages must appear on the tag of each sack or other container of unshucked raw oysters:

1. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED";

2. "RETAILERS, INFORM YOUR CUSTOMERS— Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions"; or

3. equivalent wording as approved by the state authority (see LAC 51:IX.323.B.6.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5(2)(3)(5)(7)(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1412 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008).

Alan Levine  
Secretary

0803#034

## RULE

### Department of Revenue Policy Services Division

Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises  
(LAC 61:I.1305)

Under the authority of R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1, 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.1305 relative to penalties associated with the failure to use the proper Nonresident Professional Athlete tax return IT-540B-NRA.

Problems have occurred with nonresident professional athletes filing incorrect returns. This Rule imposes a penalty on nonresident athletes if they fail to file the proper return, IT-540B-NRA.

#### Title 61

### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered By the Secretary of Revenue

#### Chapter 13. Income: Individual

#### §1305. Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises

A. - B. ...

C. Nonresident professional athletes, if required to file an individual income tax return, must utilize Louisiana Nonresident Professional Athlete form IT-540B-NRA.

D. Based on R.S. 47:1602.1, the failure to timely make and file any return or schedule required by the secretary to administer the provisions of the Sports Facility Assistance Fund will result in a penalty of \$500 for the first such failure, \$1,000 for the second such failure within a three year period beginning on the due date of the first delinquent return, and \$2,500 for each subsequent failure within the three year period beginning on the due date of the first delinquent return.

E. Based on R.S. 47:1604.1, if any taxpayer fails to make any return or makes an incorrect return, under

circumstances indicating willful negligence or intentional disregard of rules and regulations, but with no intent to defraud, shall cause a penalty to be imposed, in addition to any other penalties provided, of 5 percent of the tax or deficiency found to be due, or \$10 whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:98 (January 2002), amended LR 34:446 (March 2008).

Cynthia Bridges  
Secretary

0803#037

## RULE

### Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Elections  
(LAC 58:I.301, 303, 501, and 503)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.301, 303, 501, and 503, which extends the period during which eligible persons may be nominated for board of trustees elections. The amendments also make the election rules for active and retired LASERS members uniform. The Rule amendment complies with and is enabled by R.S. 11:511 and R.S. 11:515. No preamble for these Rule amendments has been prepared.

#### Title 58

### RETIREMENT

#### Part I. Louisiana State Employees' Retirement System Chapter 3. Election of Active Member Trustees §301. General Schedule of Elections

A. ...

B. The schedule for elections shall be as follows:

1. first day in March: nominations shall be opened;
2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:446 (March 2008).

#### §303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by the final four digits of their Social Security number. The petition should contain all of the information

which the candidate wishes to be included in the election brochure.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 31:946 (April 2005), LR 34:446 (March 2008).

## **Chapter 5. Election of Retired Member Trustees**

### **§501. General Schedule of Elections**

A. ...

B. The schedule for elections shall be as follows:

1. first day in March: nominations shall be opened;
2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time);
3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:447 (March 2008).

### **§503. Election Rules**

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the

system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by the final four digits of their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

B. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:947 (April 2005), LR 34:447 (March 2008).

Cindy Rougeou  
Executive Director

0803#31

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 126—Charter Schools  
(LAC 28:CXXXIX.Chapters 1-35)

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 approved for advertisement *Bulletin 126—Charter Schools* (LAC 28:CXXXIX), which contains policy regulating charter schools approved by the Board of Elementary and Secondary Education. The Bulletin provides for the authorizing responsibilities of BESE, the charter school application process, performance contracting, the evaluation of charter schools, charter school extension, renewal and revocation, charter school amendments, charter school governance, charter school funding, charter school fiscal responsibilities, charter school enrollment, and charter school staff.

Bulletin 126 reiterates responsibilities currently imposed on charter schools through, law, contract, and procedures. Bulletin 126 also articulates functions carried out by the BESE office and the Louisiana Department of Education. Such functions will not require the employment of staff in addition to what is currently approved for both agencies to carry out the functions of charter school authorizing and oversight, as set forth in the bulletin.

This bulletin replaces *Bulletin 904—Guidelines for Submission of a Charter School Proposal* (LAC 28:XXIII), an obsolete document that is being repealed. It is necessary to set forth the functions of BESE and the Department of Education with respect to charter schools and to outline all requirements in law and contract imposed on charter schools authorized by BESE.

#### Title 28 EDUCATION

#### Part CXXXIX. Bulletin 126—Charter Schools

#### Chapter 1. General Provisions

#### §101. Purpose, Scope, and Effect

A. The purpose of this bulletin is to provide rules to govern the implementation of R.S. 17:3971 et seq., the "Charter School Demonstration Programs Law" (hereafter, the "Charter School Law").

B. This bulletin is established to set forth the requirements for applying for a charter to operate an independent public school, the principles and requirements of authorizing the operation of a charter school, the requirements of performance contracting, the funding of charter schools, and the implementation of and enactment of regulatory requirements that must be met in the operation of a charter school. It is further established to set forth procedures for monitoring and evaluating charter schools, and amending, renewing, and revoking charters approved by the Board of Elementary and Secondary Education.

C. The regulations set forth in this bulletin are incorporated into all charters approved by BESE and shall bind all charter schools approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### §103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

B. *At-Risk Pupil*—any pupil about whom at least one of the following is true:

1. is eligible to participate in the federal free or reduced lunch program by demonstrating that he meets the income requirements established for participation in the program, not necessarily by participating in the program;

2. is under the age of 20 and has been withdrawn from school prior to graduation for not less than one semester;

3. is under the age of 20 and has failed to achieve the required score on any portion of the examination required for high school graduation;

4. is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4;

5. has been identified as an exceptional child as defined in R.S. 17:1943 not including gifted and talented; or

6. is the mother or father of a child.

C. *BESE and/or Board*—the Board of Elementary and Secondary Education as created by the Louisiana Constitution and the Louisiana Revised Statutes.

D. *Charter*—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits, which incorporate the charter school application.

E. *Charter Operator*—the nonprofit corporation authorized by BESE to operate a Type 2, Type 4, or Type 5 charter school.

F. *Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana Charter School Law to provide a learning environment that will improve pupil achievement.

G. *Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning a charter school's education program; governance, leadership, and management; financial plan; and facilities.

H. *Charter School Law*—Louisiana Laws, R.S. 17:3971 et seq., governing the operation of a charter school.

I. *Chartering Authority*—a local school board or the State Board of Elementary and Secondary Education.

J. *Core Subject*—core subject shall include those subjects defined as core subjects in Bulletin 741.

K. *Department of Education* or *LDE*—the Louisiana Department of Education.

L. *Department of Education Charter School Office*—the unit within the Department of Education responsible for the administration of the state charter school program and for providing oversight of the operation of charter schools chartered by BESE.

M. *Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

N. *Local School Board*—any city, parish, or other local public school board.

O. *Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

1. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under Section 501(c) of the United States Internal Revenue Code and is organized for a public purpose.

P. *State Superintendent*—the Superintendent of Education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§105. Purpose of Charter Schools**

A. The Charter School Law was enacted by the Louisiana legislature to create a structure whereby city, parish, and other local public school boards and BESE can authorize the creation of innovative kinds of independent public schools for the students in Louisiana.

B. The Charter School Law provides a mechanism for all persons with valid ideas and motivation to participate in the development of innovative schools and a mechanism to analyze results of charter schools. Analysis of results allows for the positive results to be repeated or replicated, if appropriate, and the negative results identified and eliminated.

C. The Charter School Law expresses the intention of the legislature that the best interests of at-risk pupils shall be the overriding consideration in implementing the provisions of the law.

D. The purposes of charter schools include providing opportunities for educators and others interested in educating pupils to form, operate, or be employed within a charter school, with each such school designed to accomplish one or more of the following objectives:

1. improve pupil learning and, in general, the public school system;
2. increase learning opportunities and access to quality education for pupils;
3. increase educational opportunities for students in formerly failing schools;
4. increase learning opportunity choices for parents and students;
5. encourage the use of different and innovative teaching methods and a variety of governance, management, and administrative structures;
6. require appropriate assessment and measurement of academic learning results;

7. account better and more thoroughly for educational results;

8. create new professional opportunities for teachers and other school employees, including the opportunity to be responsible for the learning program at the school site;

9. provide competition within the public school system in order to stimulate continued improvement in all public schools; and/or

10. expand the capacity of the public school system.

E. It is not a purpose of the Charter School Law or this bulletin to permit the establishment of a charter school to be used as the means of keeping open an existing public school that otherwise would be closed. Such a circumstance, however, shall not preclude approval of a proposed charter that otherwise fulfills a purpose of the Charter School Law and for which the application/proposal clearly demonstrates that the educational program proposed to be offered will improve the achievement levels of the students enrolled in that school.

1. For the purposes of this bulletin, the term *existing public school* shall be defined as a school that is open during the school year in which the charter applicant is submitting a charter application or was open in the school year immediately preceding the school year in which the charter applicant is submitting a charter application.

F. It is not a purpose of the Charter School Law or this bulletin to provide a means of funding for nonpublic schools or any home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3972, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§107. Types of Charter Schools**

A. A Type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A Type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the State Board of Elementary and Secondary Education.

C. A Type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

D. A Type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the State Board of Elementary and Secondary Education.

E. A Type 5 charter school is a preexisting public school transferred to the recovery school district pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the State Board of Elementary and Secondary Education, or between a nonprofit corporation and a city, parish, or other local school board or other public entity in the case of the renewal of a Type 5 charter of a school that has been transferred back to the jurisdiction of the local school board or other public entity pursuant to R.S. 17:10.5(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§109. Limit on the Number of Charter Schools**

A. There shall be no more than 42 Type 1, Type 2, Type 3, and Type 4 charters entered into by charter school authorizers.

B. For the purposes of this section, charters entered into shall include charter schools approved by a charter school authorizer, but which have not opened.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**Chapter 3. Charter School Authorizers**

**§301. Charter School Authorizers**

A. The State Board of Elementary and Secondary Education authorizes the operation of Type 2, Type 4, and Type 5 charter schools.

B. Local school boards authorize the operation of Type 1 and Type 3 charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§303. BESE Authorizing Responsibilities**

A. BESE, as the authorizer of Type 2, Type 4, and Type 5 charter schools, has the following authorizing responsibilities:

1. to implement a comprehensive application process with fair procedures and rigorous criteria that results in applications recommended that demonstrate strong capacity for establishing and operating a quality charter school;

2. to review each proposed charter in a timely manner to determine whether each charter school application complies with the Charter School Law and this bulletin and whether the application is valid, complete, financially well-structured, educationally sound, and offers potential for fulfilling the purposes of the Charter School Law;

3. to enter into any proposed Type 2, Type 4, or Type 5 charter only after there has been a specific determination by BESE that the proposed school will be operated in compliance with all applicable state and federal laws, rules, and regulations; that the accounting and financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the Charter School Law and be based on generally accepted education research findings applicable to the pupils to be served;

4. to enter into performance contracts with approved charter schools that articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences, operating terms, and other material terms;

5. to direct the Department of Education in providing adequate administrative and programmatic support and oversight; monitoring compliance; measuring progress; and implementing interventions, when necessary, with respect to Type 2, Type 4 and Type 5 charter schools; and

6. to implement a transparent and rigorous process that uses comprehensive academic data and financial, legal, and contractual reporting and compliance to make merit-

based recommendations for charter extension, renewal, and revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§305. BESE Duties Relating to Charter Schools**

A. BESE has the following duties relating to charter schools:

1. subject to the availability of funds, to administer loans pursuant to the Charter School Law for assisting in meeting the costs required to establish a charter school as well as the costs of operation;

2. to determine the policy and provide direction to the Department of Education for providing oversight of the operation of charter schools chartered by BESE;

3. upon the request of any school system with fewer than 5,000 students, to provide technical assistance to the system in determining the potential financial impact of any proposed charter school on the operation of the system;

4. to notify all local school boards that no more charters shall be awarded if, at any time prior to December 1 of each chartering period, the number of Type 1, Type 2, Type 3, and Type 4 charters would result in a total of 42 charters having been entered into;

5. to notify local school boards of the receipt of any Type 2 charter school application for a school which is proposed to be located within the district. In addition, the local board as well as other interested groups shall be allowed to provide written information regarding the application and be allowed to present information at a scheduled public meeting of BESE prior to any determination being made by BESE; and

6. to fulfill all other obligations created by state and federal law with respect to students attending charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§307. Local School Board Duties**

A. Local school boards have the following duties relating to charter schools:

1. except as otherwise provided herein relating to local school systems in academic crisis, to review and formally act upon each proposed charter within 30 days of its submission and in the order in which submitted;

a. formal review of a charter proposal and action does not require final approval or disapproval of such charter school proposal within 30 days, but within such time the local school board shall indicate whether it is interested in working with the charter school group on its proposal and what specific time line, and procedures the local school board will follow prior to coming to a final decision;

i. if the local school board expresses no interest in working with the group within 30 days, the chartering group may submit its proposal to BESE for its review;

ii. if the local school board does not reach a final decision within 60 days after the submission of the proposal, the chartering group may submit its proposal to BESE for its review;

2. to make public the process used to review any charter proposals;



3. to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at fair market value. In the case of a Type 2 charter school created as a result of a conversion, all property within the existing school shall also be made available to that chartering group under similar terms. If such facilities were constructed at no cost to the local school board, then such facilities, including all equipment, books, instructional materials, and furniture within such facilities, shall be provided to the charter school at no cost;

4. prior to approving a charter for a Type 1 or Type 3 school, to hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and its content;

5. to report any charter entered into to BESE within two business days following the approval; and

6. to report the number of schools chartered, the status of those schools, and any recommendations relating to the charter school program to BESE no later than July 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

## **Chapter 5. Charter School Application and Approval Process**

### **§501. Organization of Nonprofit Corporation**

A. A nonprofit corporation may be formed for the purpose of submitting a charter school by:

1. a group of three or more teachers;
2. a group of 10 or more citizens;
3. a public service organization;
4. a business or corporate entity registered to do

business in Louisiana pursuant to law, excluding any business or corporate entity subject to the provisions of R.S. 18:1505.2(L) as provided in R.S. 18:1505.2(L)(3);

5. a Louisiana college or university, licensed by the Board of Regents, pursuant to R.S. 17:1808;

6. the faculty and staff of any city or parish public school or any local school board; or

7. the Department of Education, subject to the approval of BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981(3), and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§503. Eligibility to Apply for a Type 2 Charter School**

A. To be eligible to submit a Type 2 charter school application, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the Louisiana Revised Statutes, Nonprofit Corporation Law;

2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;

3. have a board of directors with a minimum of three members;

4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application;

5. except as provided in Subsection B of this Section, has submitted a proposal for a Type 1 or Type 3 charter

school to the local school board in whose jurisdiction the charter school is proposed to be located which:

a. has been denied, as evidenced by a motion or resolution of the local school board; or

b. has conditions that have been placed on it that are unacceptable to the group proposing the charter; or

c. the local school board has, within 30 days of receipt of the proposal, indicated that it has no interest in working with the group; or

d. the local school board has made no final decision within 60 days after the submission of a proposal; and

6. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. Applicants applying to operate a charter school which is to be located in a local school system in academic crisis are not required to submit a Type 1 or Type 3 charter application to such local school system and may submit a proposal for a Type 2 charter school directly to BESE.

C. The eligibility criteria set forth in this section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§505. Eligibility to Apply for a Type 4 Charter School**

A. To be eligible to submit a Type 4 charter school proposal, a group must:

1. be a local school board;

2. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and

3. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. The eligibility criteria set forth in this section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§507. Existing Public Schools Converting to Charter Schools**

A. Prior to applying for a Type 2 or Type 4 charter school, which proposes to be a school converted from a preexisting public school to a charter school, an applicant must receive approval from the professional faculty and staff of the pre-existing school and the parents or guardians of children enrolled in the school.

B. Approval of the professional faculty and staff requires a favorable vote of two-thirds of the faculty and staff who are certified by BESE and who were employed at the pre-existing school. The number needed for approval shall be determined by the number of professional faculty and staff assigned to the pre-existing school on October 1 preceding the election.

1. An election must be held for the purpose of voting to convert a preexisting public school to a charter school.

2. Employees eligible to vote in an election are members of the faculty and staff who are employed at the pre-existing school and who are certified by BESE.

3. Each eligible employee may cast only one vote.

4. The election must be held by secret ballot.

C. Approval by the parents or guardians requires a favorable vote of the majority of the voting parents or guardians of pupils enrolled in the school.

1. An election must be held for the purpose of voting to convert a pre-existing public school to a charter school.

2. The number of votes cast by the parents or guardians in an election must equal at least 50 percent of the number of students enrolled in the school at the time of the election.

3. Only one vote may be cast by one parent or guardian for each student enrolled in the school at the time of the election.

4. The election must be held by secret ballot.

D. An election of the professional faculty and staff or of the parents and guardians may be repeated in any school for approval of the same or a different charter proposal; however, such an election may not occur more than once in any school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§509. Eligibility to Apply for a Type 5 Charter School**

A. To be eligible to submit a Type 5 charter school proposal, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the Louisiana Revised Statutes, Nonprofit Corporation Law;

2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;

3. have a board of directors with a minimum of three members;

4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and

5. include a person, whether a natural person or artificial entity, who or which has at least five years of significant experience operating or working for or with a person who operates a public, private, or charter school; a public or private postsecondary institution; or a for-profit business or a nonprofit entity which provides academic instruction to students.

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to apply for a Type 2 charter, but shall in no way limit the information required in §513.C., Eligibility Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§511. Charter School Application Process**

A. Application Cycle

1. All Type 2, Type 4, and Type 5 charter applications will be received, reviewed, and approved pursuant to a charter application cycle.

2. All proposed charter application cycles must be approved by BESE.

3. Type 2, Type 4, and Type 5 charter applications must be submitted in accordance with a charter application cycle approved by BESE to be considered by BESE.

4. There shall be at least one charter application cycle per year for the submission of Type 2, Type 4, and Type 5 charter school applications. Such cycle shall be established between dates April 1 and October 31 of each year.

5. BESE may approve additional cycles for the submission of Type 5 charter school applications.

6. There shall be a period of at least 90 days from the release of the charter school application to the date on which the charter application is due, except when there are exceptional circumstances as recognized by BESE in its approval of the application cycle.

a. In submitting a proposed Charter Application Cycle, which provides for a period of less than 90 days from release of the charter application to the date on which the charter application is due, the Department of Education must demonstrate that the circumstances necessitating an application cycle warrant a shorter time period from release to due date.

B. Competitive Process

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements shall be permitted to participate.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for applications must include public notice; notice to national, regional, and state organizations that support charter schools; and notice to all known interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§513. Stages of Charter Application Cycle**

A. Each charter application cycle shall include an eligibility review, a completeness review, a due diligence review, an application evaluation, and an applicant interview.

B. Eligibility Review. Each charter applicant shall be required to meet the eligibility criteria set forth in the Request for Applications, which must at a minimum include the eligibility requirements as set forth in §503, §505, and §509. Failure to meet the eligibility criteria set forth in the request for applications shall result in an applicant being deemed ineligible to apply.

C. Completeness Review. Each charter school application shall be reviewed to determine if all questions requiring a response have been completed. Failure to respond as required may result in an applicant not being permitted to proceed through the application cycle.

D. Due Diligence Review. A due diligence review shall be performed on each charter school application/applicant. It may include, but not be limited to, background and reference checks of nonprofit corporation board members and individuals and agencies associated with the charter application; analysis of school performance and nonprofit corporation and management company financial performance; and school site visits for existing operators.

E. Application Evaluation by Team of Evaluators

1. Teams of local, state, and national evaluators with expertise in charter schools and charter school authorizing, curriculum and instruction, governance and management,

and finance shall be assembled for the review of charter applications.

2. Each application review team shall consist of no less than three and no more than seven evaluators.

3. Each charter application will be reviewed by the evaluation team and scored with a uniform evaluation rubric.

F. Applicant Interview. Each charter school applicant will be interviewed by the evaluators to assess the overall capacity of the charter applicant and to permit applicants to address questions in reference to the charter school application.

G. Evaluator Recommendations. Evaluators shall make recommendations to the Department of Education for approval or denial of each charter school application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§515. Charter School Application Components**

A. The charter school application shall be prepared as a Request for Applications. Each request for applications shall consist of sections that provide applicants with information on charter schools in Louisiana, an explanation of the application process and timelines, charter school application questions, and any other information which is necessary for an applicant to be able to respond to the charter application questions.

B. All request for applications must be approved by BESE prior to the release of the request.

C. The charter school application questions contained in the request for applications shall consist of questions in the following areas: executive summary, education program, governance, leadership and management, financial plan, and facilities.

D. The charter school application questions shall address the following:

1. for Type 2 charter schools created as new schools, that the charter school will serve the percentage of at-risk students defined in the Charter School Law and in this Bulletin;

2. a statement of the school's role, scope, and mission;

3. admission requirements, if any, that are consistent with the school's role, scope, and mission may be established in accordance with that permitted in Charter School Law and this bulletin;

4. a description of the jurisdiction within which a pupil shall reside or otherwise be eligible to attend a public school in order to be eligible for admission;

5. a description of the school's recruitment, enrollment, and admission process;

6. a financial and accounting plan sufficient to permit a governmental audit;

7. a description of how the proposed charter school fulfills one or more of the purposes specified in the Charter School Law and this bulletin;

8. a description of the education program offered by the school and how that program will meet the needs of the at-risk pupils to be served, including a discussion of the school's proposed curriculum;

9. a description of how the charter school will meet the needs of students with exceptionalities;

10. the specific academic and other educational results to be achieved, the timelines for such achievement, and how results will be measured and assessed;

11. an agreement to provide a report at the end of each semester to parents of pupils enrolled in the school, the community, the local school board, and the state board indicating progress toward meeting the performance objectives as stated in the charter;

12. the organizational, governance, and operational structure of the school, including its policies regarding its compliance with applicable public body laws;

13. policies, programs, and practices to ensure parental involvement;

14. staffing plan, including the number of teachers and employees;

15. personnel policies and employment practices applicable to the school's officers and employees;

16. manner in which teachers and other school employees will be evaluated;

17. school rules and regulations applicable to pupils, including disciplinary policies and procedures;

18. information concerning the school location and the adequacy of its facilities and equipment. Such information shall include a statement of the procedures to be followed and disposition of facilities and equipment should the charter be terminated or not renewed;

19. management and accounting practices to be employed;

20. provisions regarding liability issues;

21. types and amounts of insurance coverage provided;

22. a requirement that curriculum shall be focused on the intellectual domain with intellectual development defined as acquisition of discrete technical and academic skills;

23. a requirement that charter schools regularly assess the academic progress of their pupils, including the participation of such pupils in the state testing programs, and the sharing of such information with parents;

24. a requirement that a pupil shall have a mastery of grade-appropriate skills before the pupil can be recommended for promotion or promoted; and

25. provisions regarding the security of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§517. Consideration of Charter Applications,**

#### **Awarding of Charters**

A. BESE shall consider each Type 2 and Type 4 charter school application and vote to approve or deny the application.

B. BESE shall consider each Type 5 charter school application that is recommended by the State Superintendent of Education and may vote to approve or deny the recommended application.

C. BESE shall carefully review each Type 2, Type 4, and Type 5 charter school application it receives and may approve a charter application only after it has made a specific determination that the proposed school will be operated in compliance with all applicable state and federal laws, rules, and regulations; that the accounting and

financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the Charter School Law and be based on generally accepted education research findings applicable to the pupils to be served.

D. Approval of Type 2, Type 4, and Type 5 charter schools shall require an affirmative vote of at least six board members.

E. Type 2 and Type 4 charter school applications can be approved only from May 1 through January 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§519. Pre-Opening Procedures Following Approval**

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements approved by BESE prior to executing a charter contract and prior to opening a school.

B. The pre-opening requirements of approved charter schools shall be developed by the Department of Education Charter School Office and presented for BESE's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 7. Charter School Performance Contract**

#### **§701. Charter School Contract**

A. The charter school contract shall represent the legal agreement between BESE and the Charter Operator, which defines the rights and responsibilities of the parties.

B. The charter school contract shall define the performance standards to which the charter school will be held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to, provisions regarding the establishment of the charter school; the operation of the charter school; charter school financial matters; charter school personnel; charter term, renewal and revocation; and other provisions determined necessary by BESE. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate, including but not limited to, the approved charter school application; pre-opening requirements; education service provider contract, if applicable; student discipline policy; and student enrollment.

C. Each contract entered into by BESE for the operation of a charter school shall contain provisions set forth in a standard contract template; however, BESE shall not be precluded from allowing for provisions that may be specific to an individual Charter Operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§703. Performance Measures**

A. The charter school contract shall provide for specific student performance, financial, and legal and contractual standards which must be met by the charter operator during the term of the charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§705. Contract Execution**

A. A duly authorized officer of the board of directors of the charter operator shall sign the charter contract on behalf of the charter operator.

B. The president of BESE shall sign the charter contract on behalf of BESE.

C. The charter contract shall not be fully executed until the charter operator completes all pre-opening requirements identified for completion prior to contract execution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 9. Opening of Charter School**

#### **§901. Timeline for Charter School Opening**

A. A Type 2, Type 4, or Type 5 charter school shall begin operation by not later than 24 months after the final approval of the charter, unless such charter school is engaged in desegregation compliance issues and, therefore, must begin operation by not later than 36 months.

B. If a Type 2 or Type 4 charter school fails to begin operation within the time periods set forth in §901.A., the charter for that school shall be automatically revoked although a new charter may be proposed in a subsequent application cycle.

C. A Type 2 or Type 4 charter school, once approved, may begin operation only in July, August, or September of a given year.

D. A Type 2 and Type 4 charter school shall not begin operation sooner than eight months after approval of the charter school has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 11. Ongoing Review of Charter Schools**

#### **§1101. Charter School Evaluation**

A. BESE authorizes the operation of charter schools to provide schools with increased educational and operational autonomy in exchange for accountability for performance.

B. The performance of Type 2, Type 4, and Type 5 charter schools will be reviewed and/or evaluated annually in the following categories:

1. student performance,
2. financial performance, and
3. legal and contract performance.

C. BESE will receive a report on the review and/or evaluation of charter schools in January of each year. This annual review and/or evaluation will be used in charter contract extension determinations.

D. Student Performance

1. Student performance is the primary measure of school quality. BESE shall use the state's assessment and accountability programs as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor all annual evaluations and contract extensions and renewal decisions on a school's achievement of the student performance standards.

2. Charter schools are required to administer all state assessments and are subject to the Louisiana School and

District Accountability System. The evaluation of a charter school's performance in its early years differs from the evaluation of existing public schools because the data necessary for certain types of accountability determinations to be made does not yet exist. However, data produced in a charter school's first years of existence is used in a manner that enables BESE to track student performance by the assignment of an assessment index. An assessment index represents student performance on state assessments, as opposed to student performance on state assessments combined with other data like attendance and dropout rates. Each charter school will receive an assessment index until sufficient data exists for the school to receive a school performance score (SPS). Each charter school will receive its assessment index or school performance score (SPS), as applicable, when scores are released statewide.

3. Beginning in each charter school's second year of operation, it will receive an assessment index or a school performance score (SPS) no later than the fall of each year. The assessment index or school performance score (SPS) is based on previous year or years' data. As a result, the review or evaluation criteria described in this bulletin will reference the school year in which performance results are reported, but the data used to reach the results is based on assessment that occurred in the previous school year.

4. A charter school serving high school grades will only receive an assessment index during its initial charter term. As a result, all references in this bulletin to receipt of a school performance score in a charter school's third through sixth year of operation, which is based on student assessments administered in a charter school's first through fifth year of operation, apply to charter schools serving elementary grades. Charter schools serving high school grades will receive a school performance score pursuant to Bulletin 111.

5. Charter School's First Year of Operation (Year One)

a. In the fall of each charter school's first year of operation, the Department of Education may provide each charter school with a diagnostic assessment index.

b. The diagnostic assessment index will consist of the test results of the students enrolled in the charter school from the immediately preceding spring state testing, where available.

c. Charter school students will participate in spring state testing during the school's first year of operation, which will be used to determine how its students performed in its first year of operation. Student performance in year one will be reported in year two, as set forth herein.

6. Charter School's Second Year of Operation (Year Two)

a. In each charter school's second year of operation, the charter school will receive an assessment index year one. An assessment index received in year two will be based on year one student assessment data aggregated as defined in Bulletin 111.

b. Assessment index year one will be reported in January of a charter school's second year of operation.

7. Charter School's Third Year of Operation (Year Three)

a. In each charter school's third year of operation, the charter school will be measured on the following indicators: baseline school performance score; assessment index year two; and, if necessary, assessment index year three; assessment index comparison over two years; and required growth.

i. The following indicators will be evaluated in January of a charter school's third year of operation:

(a). Baseline School Performance Score (SPS). In the fall of each elementary and combination charter school's third year of operation, a baseline SPS will be determined for the charter school. The baseline SPS will be determined as defined in Bulletin 111.

(b). Assessment Index Year Two. In the fall of each charter school's third year of operation, an assessment index will be determined for the charter school. The assessment index received in January of year three will be based on year two student assessment data aggregated as defined in Bulletin 111.

(c). The indicator standards evaluated in January of the charter school's third year of operation based on year two data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or Above
Assessment Index Year Two	60.0 or Above

ii. The following indicators will be measured no later than June of a charter school's third year of operation, if necessary, for purposes of charter extension only.

(a). Assessment Index Year Three. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will receive an assessment index. The assessment index received in year three will be based on year three assessment data aggregated as defined in Bulletin 111.

(b). Assessment Index Increase over a Two Year Period. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will receive an assessment index comparison calculation which measures growth over a two year period. The assessment index increase over a two year period will compare assessment index year three to assessment index year one. Increase will be determined for the charter school by subtracting the charter school's assessment index year three from its assessment index year one.

(c). Required Growth. Each charter school for which a decision on contract extension will be made based on year three spring state testing data will be measured based on its required growth. Required growth represents the required increase in a school's assessment index when comparing one school year to the school year that immediately follows. The required growth measurement following the charter school's third year of operation shall compare the school's assessment index year three to its assessment index year two.

(d). The evaluation indicator standards measured in June of the charter school's third year of operation based on year three data shall be as follows.

Indicator (June)	Standard
Assessment Index Year Three	60.0 or Above
Assessment Index Increase Over Two Year Period	10 Points
Required Growth	10 Points

8. Charter School's Fourth Year of Operation (Year Four)

a. In each charter school's fourth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS); growth school performance score (SPS); assessment index year three; and, if necessary, assessment index year four; and required growth.

i. The following indicators will be measured in January of a charter school's fourth year of operation.

(a). Baseline School Performance Score (SPS). In the fall of each elementary and combination charter school's fourth year of operation, a baseline SPS will be determined for the charter school. The baseline SPS will be determined as defined in Bulletin 111.

(b). Growth School Performance Score (SPS). In the fall of each elementary and combination charter school's fourth year of operation, a Growth SPS will be determined for charter schools. The Growth SPS calculation will be determined as defined in Bulletin 111.

(c). Assessment Index Year Three. In the fall of the fourth year of operation for each charter school serving high school grades, an assessment index year three will be determined for the charter school. The assessment index received in year four will be based on year three assessment data aggregated as defined in Bulletin 111.

(d). The evaluation indicator standards measured in January of a charter school's fourth year of operation, as applicable, based on year three data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or above
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Three (High Schools)	60.0 or above

ii. The following indicators will be measured in June of a charter school's fourth year of operation, if necessary for purposes of charter extension only:

(a). Assessment Index Year Four. Each charter school for which a decision on contract extension will be made based on year four spring state testing data will receive an assessment index. The assessment index received in year four will be based on year four assessment data aggregated as defined in Bulletin 111.

(b). Required Growth. Each charter school for which a decision on contract extension will be made based on year four spring state testing data will be measured based on its required growth. Required growth represents the required increase in a school's assessment index when comparing one school year to the school year that immediately follows. The required growth measurement following the charter school's fourth year of operation shall compare the school's baseline assessment index year four to its baseline assessment index year three.

(c). The evaluation indicator standards measured no later than June of the charter school's fourth year of operation based on year four data shall be as follows.

Indicator (June)	Standard
Assessment Index Year Four	60.0 or above
Required Growth	10 Points

b. Type 5 charters schools transferred to the recovery school district (RSD) pursuant to R.S. 17:10.5 will also be evaluated pursuant to R.S. 17:10.5 no later than June of the Type 5 charter school's fourth year of operation.

9. Charter School's Fifth Year of Operation (Year Five)

a. In each charter school's fifth year of operation, the school will be measured on the following indicators: baseline school performance score (SPS), growth school performance score (SPS), and assessment index year four.

i. The following indicators will be reported in January of a charter school's fifth year of operation:

(a). Baseline SPS. In the fall of each elementary and combination charter school's fifth year of operation, a Baseline SPS will be determined for the charter school. The Baseline SPS will be determined as defined in Bulletin 111.

(b). Growth School Performance Score (SPS). In the fall of each elementary and combination charter school's fifth year of operation, an SPS Growth will be determined for the charter school. The SPS Growth calculation will be determined as defined in Bulletin 111.

(c). Assessment Index Year Four. In the fall of the fifth year of operation for each charter school serving high school grades, an assessment index year four will be determined for the charter school. The assessment index received in year five will be based on year four assessment data aggregated as defined in Bulletin 111.

(d). The evaluation indicator standards reported in January of a charter school's fifth year of operation based on year four data shall be as follows.

Indicator (January)	Standard
Baseline SPS	60.0 or above
Growth SPS	Meet growth target as determined pursuant to Bulletin 111
Assessment Index Year Four (High Schools)	60.0 or above

10. Charter School's Sixth Year of Operation and Thereafter

a. In each charter school's sixth year of operation and thereafter, the school in its annual evaluation shall be measured on the following indicators: baseline SPS and growth SPS for elementary and combination schools, and assessment index for high schools, until such schools receive a school performance score pursuant to Bulletin 111.

i. Baseline SPS. In the fall of each year, a baseline SPS will be determined for each charter school as defined in Bulletin 111.

ii. Growth School Performance Score (SPS). In the fall of each year an SPS growth will be determined for each charter school as defined in Bulletin 111.

iii. Assessment Index. In the fall of each year of operation for charter school serving high school grades, an assessment index will be determined for the charter school until the charter school receives an SPS pursuant to Bulletin 111. The assessment index received in a particular year will be based on assessment data from the previous year aggregated as defined in Bulletin 111.

b. The evaluation indicator standards measured in the charter school's sixth year of operation and thereafter shall be consistent with those measures set forth in the charter school's renewal proposal, contract, and applicable law and policy.

**E. Financial Performance**

1. Type 2, Type 4, and Type 5 charter schools are required to engage in financial practices, financial reporting, and financial audits as set forth in Charter School Law, this bulletin, and the charter. The requirements imposed by law, regulation, and contract ensure the proper use of public funds and the successful fiscal operation of the charter school.

2. Charter schools will be evaluated annually on the timely submission of budgets, audits, annual financial reports, and all other financial reporting and compliance with applicable financial budgeting; accounting; and auditing laws, regulations, and procedures.

3. The evaluation financial performance indicator standards measured annually shall be as follows:

Indicator	Standard
Prior and Current Year Budgets	Both budgets balanced using realistic and responsible assumptions
Annual Financial Report	Timely and Sufficient Filing
Financial Audit	Unqualified opinion; No major findings
Financial Obligations	All in good standing
Financial Reporting	Timely and sufficient filing of all LDE-required financial reports
Student Count Audit	No major findings from LDE audit staff

4. An audit finding shall be considered "Major" if it indicates a deliberate act of wrongdoing, reckless conduct, or causes the loss of confidence in the abilities or integrity of the school or seriously jeopardizes the continued operation of the school.

5. Financial Obligations shall include, but not be limited to, pension payments, payroll taxes, insurance coverage, and loan payments and terms.

**F. Legal and Contract Performance**

1. BESE shall evaluate a charter school's performance based on the Department of Education's oversight and monitoring of the charter school's compliance with its statutory, regulatory, and contractual obligations and all reporting requirements.

2. BESE's legal and contract performance evaluation of each charter school shall be based on, but not limited to, the following indicators. All other requirements in the charter contract that are otherwise captured in the Department of Education's charter school oversight, monitoring, and reporting structure shall be subject to evaluation. In assessing legal and contract indicators, BESE may consider information from various sources.

Indicator	Standard
Special Education and ELL Program	Pursuant to applicable law and regulation and contract provisions
Student Enrollment	Pursuant to applicable law and regulation, and contract provisions
Student Discipline	Pursuant to applicable law and regulation, and contract provisions
Health and Safety	Pursuant to applicable law and regulation, and contract provisions
Governance	Pursuant to applicable law and regulation, and contract provisions
Facilities	Pursuant to applicable law and regulation, and contract provisions

3. BESE will consider a standard not met if a violation indicates a deliberate act of wrongdoing, reckless conduct, or causes a loss of confidence in the abilities or integrity of the school or seriously jeopardizes the rights of students, safety of students, or the continued operation of the school.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§1103. Alternate Evaluation of Charter Schools**

A. The provisions of §1101 shall not apply to any charter operator whose charter contract provides for an alternate evaluation system.

B. BESE may provide for an alternate evaluation system for a charter school serving a unique population or populations, as reflected in its approved charter, or for a charter school serving students in grades that do not participate in state mandated assessments and are thus not included in the Louisiana School and District Accountability System.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

**Chapter 13. Charter Term**

**§1301. Initial Charter**

A. An initial charter shall be valid for a period of up to five years, with an initial charter contract term of three years, subject to a two year extension, which shall be contingent upon the results of its third year report and a third year evaluation.

B. A charter operator shall have a right to operate a charter school during its initial charter unless the charter is revoked or surrendered.

C. A charter operator's right to operate a charter school shall cease upon the expiration of the initial charter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§1303. Third Year Review**

A. Each Type 2, Type 4, and Type 5 charter school shall provide a comprehensive report to BESE at the end of the third year of operation in compliance with guidelines and timelines established by the Department of Education.

B. Each Type 2, Type 4, and Type 5 charter school's comprehensive report and its third year evaluation shall be used to determine if the school will receive a two-year extension, as follows.

1. Contract Extension

a. A charter school meeting the following standards in January of its third year of operation will receive a two year extension, contingent upon the submission of its comprehensive third year report at the conclusion of its third year:

- i. all financial performance standards;
- ii. all legal and contractual standards; and
- iii. one of the following student performance

standards:

- (a.) SPS Year Two is 60.0 or above; or
- (b.) Assessment Index Year Two is 60.0 or

above.

b. A charter school meeting the following standards in June of its third year of operation will receive a two-year extension:

- i. submission of its comprehensive third year report;
- ii. all financial performance standards;
- iii. all legal and contractual standards; and
- iv. one of the following student performance standards:

(a.) Assessment Index Year Three is 60.0 or above; or

(b.) Assessment Index increase of 10 points over two years of has been met; or

(c.) Required Growth of 10 points has been met.

c. A Type 5 charter school authorized pursuant to R.S. 17:10.5 meeting the standards set forth in §1303.B.1.a. or b., but not meeting any standard set forth in R.S. 17:10.5, will receive a one-year extension.

2. Contract Probation

a. A charter school not meeting all of the standards set forth in §1303.B.1.a or b, but meeting the following standard, may receive a one year probationary extension in June of its third year, subject to any conditions and/or monitoring required by BESE:

- i. submission of its comprehensive third year report;
- ii. all financial performance standards;
- iii. all legal and contractual standards; and
- iv. Required growth of 10 points not met, but 5 point increase made.

b. A charter school not meeting all of the standards set forth in §1303.B.1, but meeting the following standard, may receive a one-year extension and be placed on contract probation in June of its third year, subject to any conditions and/or monitoring required by BESE:

- i. submission of its comprehensive third year report;
- ii. at least one student performance measure necessary to receive an extension has been met; and
- iii. three or fewer financial standards or legal and contractual standards or a combination thereof have not been met.

3. Charter Revocation

a. A charter school not meeting the standards set forth in §1303.B.1 or §1303.B.2 shall be recommended for

revocation of its charter and shall proceed to a revocation hearing as set forth in Chapter 17 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§1305. Fourth Year Review of Charter Schools on Contract Probation**

A. A charter school granted a one-year extension and placed on probation after its third year of operation pursuant to §1303.B.2 shall comply with all conditions of probation established by BESE and the Department of Education Charter School Office.

1. A charter school meeting the following standards in January of its fourth year of operation may receive a one-year extension, at the conclusion of its fourth year:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of following student performance measures:
  - i. Baseline SPS Year Three is 60.0 or above; or
  - ii. Growth SPS met.

2. A charter school meeting the following standards in June of its fourth year of operation shall receive a one-year extension:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of the following student performance standards:

i. Assessment Index Year Four is 60.0 or above; or

ii. Required Growth of 10 points has been met.

B. A charter school not meeting the standards set forth in §1305.A.1 shall be recommended for revocation of its charter and shall proceed to a revocation hearing as set forth in Chapter 17 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**Chapter 15. Charter Renewal**

**§1501. Renewal of Charter**

A. At the conclusion of a Type 2, Type 4, or Type 5 charter school's fifth year of operation and the expiration of its initial charter contract, a charter operator no longer has a continuing right to operate a charter school.

B. A charter school may apply for a renewal of its charter in compliance with processes and timelines established by the Department of Education Charter School Office and approved by BESE.

C. The Department of Education Charter School Office shall make a recommendation to BESE as to whether a charter renewal application should be approved.

D. A charter school may be renewed at the discretion of BESE if all requirements set forth in law and policy for the renewal of a charter have been met.

E. The process for renewing a school charter shall be the same as for initial charter approval, with a thorough review by BESE of the charter school's operations, student academic performance, and compliance with charter requirements.

F. No charter shall be renewed unless the charter operator seeking renewal can demonstrate, at a minimum, using standardized test scores, improvement in the academic



performance of pupils over the term of the charter school's existence.

G. A charter may be renewed for a term consistent with law and policy effective when a renewal decision is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

## **Chapter 17. Revocation**

### **§1701. Reasons for Revocation**

A. BESE may revoke a school's charter any time prior to the expiration of a charter operator's five-year term following initial approval or prior to the expiration of its ten-year renewal, if such is granted pursuant to Chapter 15 of this bulletin, upon a determination that the charter school or its officers or employees did any of the following:

1. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

2. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

3. failed to meet generally accepted accounting standards of fiscal management;

4. violated any provision of law or BESE policy applicable to a charter school, its officers, or employees;

5. the health, safety, and welfare of students is threatened;

6. failed to meet the minimum standards for continued operation pursuant to R.S. 17:10.5, after four years of operation; or

7. any other reasons for revocation listed as such in a charter school's charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§1703. Revocation Proceedings**

#### **A. Recommendation to Revoke Charter**

1. A recommendation to revoke a charter shall be made to BESE by the Department of Education at least one BESE meeting prior to the BESE meeting at which the recommendation may be considered, except as otherwise provided herein when the health, safety, and welfare of students is at issue.

2. Prior to the BESE meeting at which the Department of Education will make a recommendation that BESE commence a revocation proceeding, the Department of Education will inform the charter operator that it is requesting such and the reasons therefor and may meet with the charter operator, upon request, to discuss the revocation recommendation.

3. Following the Department of Education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

4. BESE may, on its own, commence a charter revocation proceeding.

#### **B. Revocation Hearing**

1. The charter operator shall have an opportunity for a hearing prior to the revocation of its charter.

2. All charter school revocation hearings shall be heard by the Legal Due Process Committee of BESE or the Board Administration Relations Committee, as determined

by the board. The committee conducting the hearing shall make a recommendation to BESE, which shall vote on the committee's recommendation.

3. The Department of Education, through its charter school office and legal division, shall act as the prosecuting authority and shall present evidence supporting a recommendation for revocation of a school's charter.

#### **C. Hearing Officer**

1. BESE shall appoint a hearing officer to preside over the revocation hearing and carry out certain adjudicative functions including, but not limited to, the following:

a. set procedures and deadlines for the exchange of information, the filing of motions and requests for orders, and other discovery, as necessary;

b. rule on all pre-hearing motions and requests for declaratory orders;

c. direct parties to appear and confer for the simplification of issues, the setting of pre-hearing deadlines, or to otherwise address pre-hearing conferences, if deemed necessary by the hearing officer, to effectuate an orderly hearing;

d. issue subpoenas under the authority of BESE;

e. administer oaths and affirmations;

f. regulate the course of the hearing and the conduct of the parties and their counsel;

g. rule on offers of proof and receive relevant evidence;

h. rule on all objections to evidence presented, with the ability to exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence;

i. consider and rule upon procedural requests or similar matters;

j. direct witnesses to testify, limit the number of times any witness may testify, limit repetition or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

k. assist the chair of the committee hearing the revocation and/or president of BESE in preparing findings of fact and conclusions of law consistent with the determinations made by the committee of BESE and/or BESE.

2. It shall not be the function of the hearing officer to make a determination or decision with respect to the revocation of a charter.

#### **D. Revocation Hearing Notice**

1. A charter operator shall be provided reasonable notice of the revocation hearing at least 15 calendar days prior to the scheduled revocation hearing.

a. Except as otherwise provided herein, the notice of the revocation hearing shall be provided to the charter operator and shall include:

i. a statement of the time, place, and nature of the hearing;

ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;

iii. a reference to particular sections of statutes, rules, and/or the charter school contract involved; and

iv. a short and plain statement of the matters asserted.

2. If BESE is unable to provide the exact date and time of the hearing when the initial notice is provided to the charter operator, it may provide a range of dates when the

hearing will be held and provide a supplemental notice of hearing with the exact date and time. Such supplemental notice with the exact date and time shall be provided to the charter operator no later than seven calendar days prior to the hearing date.

3. If BESE is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished to the charter operator.

4. The hearing office shall send notice or conduct a scheduling conference to establish all pre-hearing deadlines.

5. All notices with respect to a revocation hearing shall be made by personal delivery; by registered or certified mail; or by U.S. regular mail, postage prepaid; and by facsimile, if available. Notice shall be determined to be provided on the day on which personal delivery or mailing occurs or the day on which facsimile is transmitted.

#### E. Issuance of Subpoenas

1. The president of BESE or the hearing officer shall have power to sign and issue subpoenas in the name of BESE requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

2. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with BESE a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to Title 13 of the Louisiana Revised Statutes.

3. A subpoena issued pursuant to this Section shall be served by any agent of BESE or the Department of Education; by the sheriff; by any other officer authorized by law to serve process in this state; by certified mail, return receipt requested; or by any person who is not a party and who is at least 18 years of age.

4. Witnesses subpoenaed to testify before BESE only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness.

#### F. Presentation and Evaluation of Evidence at Revocation Hearing

1. At the charter revocation hearing, an opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

2. BESE shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs and shall give effect to the rules of privilege recognized by law.

a. All evidence, including records and documents in the possession of the Department of Education or BESE of which the Department of Education desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

b. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Department of Education or BESE's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Department of Education's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

#### G. Revocation Decision

1. A charter may be revoked upon an affirmative vote of six members of BESE.

2. A decision to revoke by an affirmative vote of six members of BESE members shall be considered a final decision and shall be in writing or stated in the record.

3. The revocation decision shall include findings of fact and conclusions of law.

4. The charter operator shall be notified in writing of the revocation decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 19. Amendments to Charters**

#### **§1901. Charter Amendments**

A. Any modification to the provisions of a school's charter shall constitute an amendment to the charter. An amendment may be material or non-material, as defined in this bulletin.

B. All charter amendment requests or notices, as applicable, must be submitted by the charter operator.

C. No charter amendment shall be the basis of extending the duration of the school's original charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992..

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§1903. Material Amendments**

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. changes in legal status or management, including the structure of the governing board, or assignment of or changes in education service provider;

2. changes in the school's mission;

3. changes in grade levels served;

4. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter;

5. changes in school location (change of site and/or adding or deleting sites);

6. changes in the school calendar affecting the number of days of instruction;

7. changes in admission procedures or criteria, if applicable;

8. changes in special education procedures;

9. changes in curriculum or methodology;

10. changes in method(s) used to measure pupil progress;

11. changes in signing authority for the charter school; and

12. changes in any option expressed in the charter contract exhibit with respect to collective bargaining.

B. A material amendment to a charter must be approved by an affirmative vote of at least a majority of the membership of BESE.

C. The charter operator shall submit a request for a material amendment to its charter in compliance with all timelines and pursuant to all guidance, forms, and/or applications developed and set forth by the Department of Education Charter School Office.

D. The Department of Education's Charter School Office shall make recommendations to BESE on each material amendment request it receives from a charter operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§1905. Non-Material Amendment**

A. A non-material amendment to a charter is an amendment that makes non-substantive changes to a school's charter. Non-material amendments include:

1. changes to the mailing address, telephone, and/or facsimile number of the charter school;

2. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site;

3. amendments to the charter operator's by-laws;

4. change in membership of the charter operator's board of directors that exceeds 60 percent or more of its members within any six month period; and

5. changes in any option expressed in the charter contract exhibits with respect to Teachers' Retirement System of Louisiana, or student discipline.

B. The charter operator shall provide BESE with written notification of a non-material amendment to its charter in compliance with all requirements set forth by the Department of Education Charter School Office.

C. A non-material amendment will be effective 10 days following written notification, unless BESE or the Department of Education Charter School Office on behalf of BESE notifies the charter operator that it objects to the proposed amendment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§1907. Other Charter Amendments**

A. The charter operator shall provide BESE with written notification of all charter amendments not provided in §1703 and §1705 in compliance with all requirements set forth by the Department of Education Charter School Office.

B. The Department of Education Charter School Office shall determine if the reported amendment requires BESE approval of the amendment pursuant to §1703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

## **Chapter 21. Charter School Governance**

### **§2101. Board of Director Composition**

A. The board of directors of each charter operator shall consist of no fewer than seven members. Each charter operator shall be in full compliance with the provisions of this Subsection not later than January 1, 2009.

B. The board of directors of each charter operator should consist of members with a diverse set of professional skills and practical work experience in the areas of education, public/non-profit and/or for-profit administration or operations, community development, finance, and law.

C. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. Community, for the purposes of this paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for Type 2 charter schools, any parish that is included in the charter school's attendance zone.

D. The board of directors of each charter operator shall consist of no more than one person from the same immediate family, as defined by the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2103. Board Member Responsibilities**

A. The board of directors of each charter operator shall be responsible for implementing the public charter school program proposed in its charter application, complying with and carrying out the provisions of the charter school contract and complying with all applicable federal and state laws and policies governing the charter school.

B. The board of directors of each charter operator shall operate in accordance with its duly adopted bylaws, which shall include a conflicts of interest policy that is consistent with applicable law including, but not limited to, the Louisiana Code of Governmental Ethics.

C. The board of directors of each charter operator shall comply with all requirements set forth by the Louisiana Nonprofit Corporations Law and Louisiana Secretary of State and shall remain in good standing during the term of its charter.

D. The board of directors of each charter operator shall comply with all laws applicable to public bodies including, but not limited to, the Louisiana Open Meetings Law, the Louisiana Public Records Law, and the Code of Governmental Ethics.

E. The board of directors of each charter operator is responsible for the sound fiscal management of the charter school.

F. The board of directors of each charter operator shall exercise final authority in matters affecting the charter school including, but not limited to, staffing, financial accountability, and curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2105. Board Member Training**

A. The board of directors of each charter operator shall develop an annual training schedule with respect to the operation of a non-profit organization and the management of a charter school in compliance with requirements set forth by the Department of Education Charter School Office.

B. The board of director training schedule may vary for each member following the charter school's first year of operation and may be dependent upon the number of years each member has served on the board.

C. Training topics should include, but not be limited to:

1. nonprofit corporation law and operations;
2. charter school law and school law, in general;
3. school finance;
4. special education;
5. School and District Accountability Program;
6. student discipline;
7. public body laws, including open meetings law, public records law, and Code of Governmental Ethics; and
8. charter school reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2107. Prohibitions**

A. No member of BESE shall be a member of the board of directors of any Type 2, Type 4, or Type 5 charter school.

B. No member of any city, parish, or other local public school board shall be a member of the board of directors of any Type 5 charter school within the jurisdictional area of such city, parish, or other local public school board.

C. No member of the board of directors of any Type 5 charter school shall be an elected official as defined by the Louisiana Code of Governmental Ethics. No individual formerly classified as an elected official may serve on the board of directors of any Type 5 charter school for a period of one year following his or her termination from elected service.

D. The board of directors of each charter operator shall receive no compensation other than reimbursement of actual expenses incurred while fulfilling duties as a member of the board.

E. The board of directors of each charter operator shall be prohibited from employing, in any manner, any of its members.

F. A charter school shall not be supported by or affiliated with any religion or religious organization or institution.

G. A charter school shall not result from the conversion of any private school or any home study program, as defined in R.S. 17:236.

H. A charter school shall not charge any student any tuition or an attendance fee of any kind.

I. A charter school shall not discriminate among potential employees, employees, or pupils in violation of any state or federal law.

J. A charter school shall not hire a person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or a school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish

and the district attorney. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 23. Charter School Funding**

#### **§2301. State Funding**

A. For the purposes of funding, each Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement and shall receive a per pupil amount each year from the local school board based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

B. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD, which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

C. Type 2 charter schools shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to Type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February 15 pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any Type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February 15 membership count occurs.

D. The per pupil amount provided to all charter schools shall be computed at least annually.

E. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§2303. Federal Funding**

A. Any Type 2 or Type 5 charter school shall be considered the local education agency for purposes of any special education funding or statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum

Foundation Program and any federal funds or special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2305. Other Funding**

A. Any approved charter school shall be eligible for any other federal, restricted state, and unrestricted state funding for which the school or its pupils qualify.

B. Each charter school shall receive, at a minimum, its per pupil share for any state or federal grant program such as any funding provided for technology, teacher supplies, kindergarten through third grade reading and mathematics, summer school, and other remediation funding. In addition, each charter school shall receive any other state or federal grant program funding, where such funding is distributed on a per pupil basis and a charter school is eligible to receive the funding under the terms of the grant. The charter operator shall comply with the terms of the grant.

C. A charter school may apply for and receive funding directly from the state or federal government.

D. Any approved charter school may solicit, accept, and administer donations or any other financial assistance in the form of money, grants, property, loans, or personal services for educational purposes from any public or private person, corporation, or agency and must comply with rules and regulations governing grants from the federal government or from any other person or agency, which are not in contravention of the federal or state constitution or any other federal or state law.

E. Every pupil enrolled in a charter school shall be counted in the charter school's total pupil count for purposes of funding, including each pupil who is pursuing a high school diploma or participating in a pre-general education development skills program, as defined by BESE policy.

F. No child enrolled in a pre-kindergarten program offered by a charter school shall be counted for purposes of funding pursuant to §2301, unless such funding is specifically provided for such purpose. However, such school shall be eligible for any other funding that may become available for children enrolled in pre-kindergarten programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

## **Charter 25. Charter School Fiscal Responsibilities**

### **§2501. Qualified and Competent Business Professional**

A. Each Type 2 and Type 5 charter operator shall retain a qualified and competent business professional who shall produce all financial and accounting information and reporting required by its charter contract, state law, and this bulletin, except as otherwise provided herein.

B. The qualified and competent business professional shall meet one of the following minimum qualifications:

1. possess a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;

2. possess a certified public accountant license in Louisiana;

3. possess a master's degree in public or business administration.

C. Any applicant for a qualified and competent business professional position shall have not less than three years of work experience in a field relevant to the duties and responsibilities of a lead school business administrator. Relevant areas shall include accounting, finance, or other areas of fiscal management.

D. Continuing Education. All qualified and competent business professionals must acquire Certified Louisiana School Business Administrator (CLSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the date of hire as a qualified and competent business professional and maintain certification while employed as a qualified and competent business professional. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a qualified and competent business professional.

E. A qualified and competent business professional employed prior to the effective date of this bulletin shall be exempt from meeting the minimum degree and work experience requirements. The qualified and competent business professional shall be allowed seven years from the date of final adoption into law to complete the CLSBA certification or become a licensed CPA in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2503. Budgeting**

A. All charter operators shall comply with the provisions of the Louisiana Local Government Budget Act, R.S. 39:1301 through 1315.

B. Charter operators shall budget on a fiscal year basis, July 1 through June 30.

C. Type 4 charter operators shall annually submit a budget to the Superintendent of Education in accordance with the provisions of R.S. 17:88. Each Type 2 and Type 5 charter school shall annually submit its budget directly to the superintendent of education in accordance with deadlines established by the department.

D. Each charter operator shall submit its budget and all related documents on forms required by the department and shall comply with *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

1. The revenues/receipts and expenditures/disbursements in the charter operator's budget shall be listed and classified in such manner and substance as prescribed by the department, and shall detail as nearly as possible the items of expected revenue/receipts and expenditures/disbursements, the total of which shall not exceed the expected means of financing composed of the beginning fund balance, cash balances, and revenues/receipts.

2. If, during the course of the fiscal year, it becomes evident that receipts or disbursements will vary substantially from those budgeted, the charter operator shall prepare and adopt, in like form, manner, and substance, an amended budget as prescribed by the department.

E. The charter operator shall maintain records in a manner to reflect compliance with generally accepted accounting principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2505. Financial Reporting**

A. Each charter operator shall submit quarterly reports to the department listing year-to-date revenues and expenditures through that quarter and budgeted revenues and expenditures for the fiscal year, using forms provided by the department and on dates specified by the department as set forth below.

Due Date	Financial Report
July 31	Annual Operating Budget Includes actual data for the prior fiscal year ending June 30 along with budgeted data for the current fiscal year starting July 1.
October 31	First Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
January 31	Second quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
April 30	Third Quarter Financial Report Includes budgeted data for the fiscal Year along with the YTD actual data through March 31.
July 31	Fourth Quarter Financial Report Includes budgeted data for the fiscal Year along with the YTD actual data through June 30.

B. Each charter school will submit an annual financial report (AFR) to the department no later than September 30 of each year. The AFR shall follow the format and contain information prescribed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2507. Annual Independent Audit**

A. Each charter operator shall have an annual independent audit to be conducted by a certified public accountant in accordance with R.S. 24:513 et seq., and 17:3996(F), the cost of which shall be borne by the charter operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2509. Assets**

A. Any assets acquired by a Type 2 or Type 5 charter operator are the property of the charter school for the duration of the charter school's charter. Any assets acquired by a Type 4 charter school are the property of the local school board.

B. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

C. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter

operator demonstrate that the assets were purchased with private funds.

D. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**Charter 27. Charter School Recruitment and Enrollment**

**§2701. Students Eligible to Attend**

A. Type 2 Charter Schools. Students meeting residency requirements established in a Type 2 charter school's charter are eligible to attend a Type 2 charter school. A Type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the Type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a Type 4 charter school, unless an agreement with another city or parish school board is reached to allow students from outside the parish to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such Type 5 charter schools which have capacity for another student in the appropriate grade.

D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the recovery school district include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such Type 5 charter schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2703. Enrollment Capacity**

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2705. Admission Requirements**

A. A Type 2 and Type 4 charter school may have admission requirements that are consistent with the school's role, scope, and mission.

B. Admission requirements imposed by a Type 2 or Type 4 charter school must be set forth in the charter school's approved charter and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1943(4). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or achievement of a certain academic record for schools with a college preparatory mission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2707. Application Period**

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months and shall not commence prior to January 1 of the school year immediately preceding the school year for which the applications are being accepted.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2709. Enrollment of Students, Lottery, and Waitlist**

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school's lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.

G. A charter school shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

**§2711. Lottery Exemptions**

A. Students seeking enrollment to a charter school that was created through the conversion of a pre-existing school shall be exempt from a lottery and shall be automatically admitted following the charter school's application period.

B. In a charter school's second year of operation and thereafter, students previously enrolled in the charter school and their siblings shall be exempt from a lottery, and shall maintain enrollment or be automatically admitted following the charter school's application period.

C. Students seeking enrollment to a Type 5 charter school that is assigned a facility formerly occupied by a pre-existing public school may be exempt from a lottery and may be automatically admitted following the charter school's application period, if authorized in the charter operator's charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### §2713. At-Risk Students

A. Except as otherwise provided by Charter School Law, Type 2 charter schools created as new schools shall maintain an at-risk student population percentage, based on the October 1 pupil membership count, that is equal to the percentage of students eligible for the federal free or reduced lunch program in the district in which the charter school is located or the average of districts from which students served by the charter school reside.

1. The charter school's at-risk population shall consist of 85 percent of students who are eligible for the federal free and reduced lunch program and thus defined as at-risk pursuant to §103.B.1 of this bulletin.

2. The remaining 15 percent of a charter school's at-risk population may consist of at students defined as at-risk in §103.B.1 through §103.B.6 of this bulletin.

B. A charter school's required at-risk percentage, based on the percentages of a city or parish school system, shall remain fixed during the term of its approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect the current year's at-risk percentage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

### Chapter 29. Charter School Staff

#### §2901. Employment of Staff

A. Each charter operator may employ faculty and staff members as it deems necessary.

B. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

C. The charter operator shall have exclusive authority over all employment decisions at the charter school, unless delegated to a for-profit management organization, as authorized in law and which must be specifically provided for in a service provider agreement.

D. The provisions of any collective bargaining agreement entered into by the local school board in whose jurisdiction the charter school is located shall apply to a Type 2 or Type 4 charter operator unless its approved charter provides otherwise. A charter operator may select to not be subject to such a collective bargaining agreement in its charter.

E. A Type 5 charter operator may bargain and enter into a collectively bargained contract on behalf of all or any group of its employees.

F. The employees in Type 4 charter schools are in all respects employees of the local school board entering into the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### §2903. Certification

A. Each Type 2 and Type 4 charter operator shall meet the following requirements with respect to certification of its instructional staff:

1. A minimum of seventy-five percent of the instructional staff of each Type 2 and Type 4 charter operator

shall consist of employees holding valid certificates issued by the department or the French Ministry of Education.

2. The remaining 25 percent of a charter operator's instructional staff shall consist of employees meeting at least one of the following requirements:

a. be authorized under law or BESE regulation to teach temporarily while seeking a regular teaching certificate; or

b. have at least a bachelor's degree or 10 years of experience related to the teaching position for which he or she is being hired, demonstrate exemplary skills in his field of expertise, and be providing instruction under the supervision of a certified teacher.

i. Each charter operator shall have the authority to make a determination with respect to the qualifications of any individual who applies for employment under this subparagraph.

B. Each Type 5 charter operator shall meet the following requirements with respect to certification of its instructional staff.

1. Beginning no later than the second school year of operation, each Type 5 charter operator shall have not less than the same percentage of teachers holding valid certificates issued by the department than was the case prior to the school's transfer to the recovery school district.

2. Beginning no later than the third school year of operation, each Type 5 charter operator shall have a teacher holding a valid certificate issued by the department teaching every core subject.

3. All other instructional staff employed in a Type 5 charter school shall meet the same requirements as provided §2903.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### §2905. Criminal History Review

A. Each charter operator shall request in writing that the Louisiana Bureau of Criminal Identification (LBCI) and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the charter operator making the request.

2. The form must include a statement signed by the person about whom the request is made which gives his or her permission for such information to be released and must include the person's fingerprints in a form acceptable to the LBCI.

3. A person who has submitted his or her fingerprints to the LBCI may be temporarily hired pending the report from the LBCI as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:5871.1. shall be hired



by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the charter operator shall submit a copy of the statement of approval to the Department Charter School Office.

C. The charter operator shall dismiss any teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:587.1(c) except R.S. 14:74.

D. A charter operator may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:587.1(c), except R.S. 14:74, only upon written approval of the district judge and the district attorney of the parish or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the charter operator shall submit a copy of any such statement of approval or written documentation from the court to the department charter school office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§2907. Leave of Absence**

A. Any employee of a local public school system shall, upon request, be granted a leave of absence in order to be employed in a charter school. The leave of absence shall not exceed three years.

B. Each employee granted a leave of absence shall retain the right to return to employment with the local public school system in accordance with law.

1. At the end of the second year of a leave of absence as provided in this Section, an employee may make a written request to the local school board to return to the school system to a comparable position from which the leave was granted. Upon such request, the employee shall be permitted to return to a comparable position, even if such return necessitates a reduction in force by the local school system board, in accordance with the provisions of R.S. 17:81.4.

2. At the end of the third year of leave as provided in this Section, an employee shall either make a written request to the local school board to return to the school system in a comparable position, if one is available, or resign from the position from which the leave was granted. Any employee requesting to return to the local public school system in a comparable position shall be permitted to return to a position, even if such return necessitates a reduction in force

by the local school board, in accordance with the provisions of R.S. 17:81.4.

C. The local public school system may require that any request to return to the local school system be made at least 90 days before the employee would otherwise have to report for duty.

D. Any teacher returning to a local public school system as provided in this Section shall retain permanent status gained in the local school system prior to the authorized leave, even if the teacher is terminated by the charter school.

E. Upon the return of an employee to the local public school system, such employee shall not lose any right of retirement or salary status or any other benefits to which the employee would have been entitled had he not taken a leave of absence to teach in a charter school.

F. Each local school board shall permit any employee granted leave as provided in this Section to continue to participate in any group insurance program in which he was otherwise entitled to participate subject to the same conditions and costs.

G. For the duration of leave granted as provided in this Section, an employee on leave shall contribute to and be eligible for continued membership in the school employees' and teachers' retirement systems, and service time shall accrue toward retirement benefits. Service time while employed by a charter school shall not accrue toward the acquisition of permanent status.

H. The provisions of this Section shall not apply to employees of a Type 4 charter school, as such employees employed by a Type 4 charter school shall are employees of the local school board entering into the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **§2909. Employee Benefits**

A. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

B. Except as provided in this Section with respect to employees on an approved leave of absence from a local school board, charter school employees shall be eligible for participation in any or all benefits which would otherwise accrue to employees in any other elementary or secondary school including, but not limited to, the school employees' and teachers' retirement systems, subject to the school's approved charter, which must provide for such participation.

C. With regard to participation in the public retirement systems:

1. the compensation that the teacher or school employee would have received if employed by the local public school system shall be used to determine employee and employer contribution levels of the respective retirement systems;

2. any compensation paid to a teacher or school employee which exceeds the salary that would have been received if employed by the local school system shall not be deemed as compensation solely for the purpose of the calculation of future retirement benefits.

D. As employees of the local school board holding the charter, the employees in Type 4 charter schools shall be entitled to the benefits, and be subject to conditions of

employment, as prescribed by the local school board within the charter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **§2911. Evaluation and Assessment**

A. Each charter operator may determine whether the members of the faculty and staff of the school are going to participate in any assessment and evaluation program required by the state, including the teacher assistance and assessment program pursuant to the Children First Act.

B. For those charter operators choosing not to participate in the teacher assistance and assessment program, three years of successful teaching within the charter school shall be deemed to meet the provisions of R.S. 17:3891, which require the successful completion of the teacher assistance and assessment program in order to obtain or retain a regular teacher certificate. However, such regular teacher certificate is only valid for teaching within a charter school, and any teacher with such certificate hired to teach in a public school other than a charter school shall be required to successfully complete the teacher assistance and assessment program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 31. Notification Requirements**

#### **§3101. Required Notifications**

A. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any conditions that may cause it to vary from the terms of its charter, state law, or BESE policy.

B. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any circumstance requiring the closure of the charter school including, but not limited to, a natural disaster, such as a hurricane, tornado, storm, flood or other weather related event; other extraordinary emergency; or destruction of or damage to the school facility.

C. The charter operator shall notify BESE and/or the Department of Education Charter School Office of the arrest of any members of the Charter School's Board of Directors, employees, contractors, subcontractors, or any person directly or indirectly employed by the charter operator for a crime listed in R.S. 15:587.1(C) or any crime related to the misappropriation of funds or theft.

D. The charter operator shall notify BESE and/or the Department of Education Charter School Office of a default on any obligation, which shall include debts for which payments are past due by 60 days or more.

E. The charter operator shall notify BESE and/or the Department of Education Charter School Office of any change in its standing with the Office of the Louisiana Secretary of State.

F. The charter operator shall immediately notify BESE and/or the Department of Education Charter School Office if its enrollment decreases by 10 percent or more compared to the most recent pupil count submitted to the Department of Education and/or BESE.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 33. Complaint Procedures**

#### **§3301. Charter Operator Complaint Procedure**

A. Each charter operator shall maintain a complaint procedure through which parents, guardians, or other individuals or groups can appeal to the nonprofit corporation board of directors to address any issues or problems such individuals seek redress to.

B. Charter operator complaint procedures should, at a minimum, address any forms that must be completed by a complainant, the progression of a complaint, and the timeframes for consideration and action.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

### **Chapter 35. Volunteer Requirements**

#### **§3501. Volunteer Programs**

A. Any charter school volunteer program that requires parents to commit a certain number of volunteer hours shall be subject to a waiver process.

B. A charter operator shall not condition the enrollment of any student on the commitment of the student's parents to provide any number of volunteer hours, to donate volunteer hours to the charter school, or to pay a fee in lieu of volunteer hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:

#### **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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 126—Charter Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Bulletin 126 is a policy regulating charter schools approved by the Board of Elementary and Secondary Education. The Bulletin provides for the authorizing responsibilities of BESE, the charter school application process, performance contracting, the evaluation of charter schools, charter school extension, renewal and revocation, charter school amendments, charter school governance, charter school funding, charter school fiscal responsibilities, charter school enrollment, and charter school staff.

Bulletin 126 reiterates responsibilities currently imposed on charter schools through, law, contract, and procedures. Bulletin 126 also articulates functions carried out by the BESE office and the Louisiana Department of Education. Such functions will not require the employment of staff in addition to what is currently approved for both agencies to carry out the functions of charter school authorizing and oversight, as set forth in the Bulletin.

This action will have no fiscal effect other than \$2,800.00 for advertising in the Louisiana Register.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This action will have no effect on revenue collections of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This action will have no effect on cost and /or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This action will have no effect on competition and employment.

Weegie Peabody  
Executive Director  
0803#019

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 128—Entrepreneurship Content Standards Curriculum Framework (LAC 28:CXLIII.Chapters 1-5)**

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 128—Entrepreneurship Content Standards Curriculum Framework*. Bulletin 128 will be printed in codified format as Part CXLIII of the Louisiana Administrative Code. The action is being proposed to update Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

Louisiana has a rich history of business ownership and commerce. From its very beginning, trade and exchange of goods and services made the state prosperous. In an effort to continue this heritage, the entrepreneurship curriculum was born. Louisiana loses its best and brightest young people to other states as they look for jobs and careers unavailable to

them in Louisiana. Entrepreneurship is one of the keys to prosperity for those young adults, and it is the purpose of this curriculum to provide them with the knowledge necessary to pursue business ownership.

A variety of business courses have been taught in Louisiana public high schools that touched on entrepreneurship, but no standardized entrepreneurship curriculum existed. The mission of this effort was to funnel into one comprehensive curriculum the management, marketing, and financial theory and practices necessary for entrepreneurial success. Throughout the development process, significant efforts were made to maintain the rigor essential for articulation of this course into credit hours at either a two- or four-year post secondary institution.

**Title 28**

**EDUCATION**

**Part CXLIII. Bulletin 128—Entrepreneurship Content Standards Curriculum Framework**

**Chapter 1. General Provisions**

**§101. Introduction**

**A. The entrepreneurship curriculum:**

1. attracts high school students to investigate entrepreneurship as a viable career option and addresses the dilemma of losing our high school and college graduates to other states for jobs;

2. offers a standards-based curriculum. Entrepreneurship is aligned with the Louisiana grade level expectations and the Consortium for Entrepreneurship Education's National Content Standards for Entrepreneurship Education;

3. serves as a recruitment and retention tool for Louisiana's two- and four-year colleges and universities through articulation agreements;

4. provides structured practical experiences. Entrepreneurship students participate in a vendor fair within a school-based environment helping to prepare them for the economic realities in the marketplace.

**B. The goal of entrepreneurship is to encourage our students to stay in Louisiana after high school or college and begin their careers by building their own businesses, thus improving the economy of the state. In order to realize this goal, we must begin to make students aware of entrepreneurship and its possibilities, and provide the tools necessary for all our students to achieve success.**

**C. Following are some particulars that should be noted in the entrepreneurship curriculum.**

1. All lessons shall be taught in their entirety and in the order they are presented in the curriculum. The lessons are listed in a logical order designed for information flow from one lesson to the next.

2. One outcome of the entrepreneurship curriculum will be the development of a completed business plan for the student's chosen product or service.

3. The first three lesson plans (Unit 1, Lessons A, B, and C) are informational and must be covered by the teacher and explained to the student at the beginning of the course. These lessons cover course requirements in regard to the portfolio construction, outline of the business plan, and the student market (held at year's end).

4. Additional teaching lessons have been added to assist technical education teachers in the instruction of entrepreneurship relative to their respective fields. These

additional lessons can be used in conjunction with the curriculum or as a stand alone unit in an existing course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**Chapter 3. Strands, Standards, Benchmarks, and Objective**

**§301. Strand One: Traits and Characteristics**

A. Focus. Entrepreneurs typically exhibit certain traits that set them apart from others. This strand focuses on those personal characteristics that are important—both now as students and as working adults in a knowledge-based economy.

B. Standard 1. Students will identify personal characteristics associated with entrepreneurs.

Benchmark 1-A. Identify Personality Traits of Successful Entrepreneurs	
1-A-1	Demonstrate ethical work habits
1-A-2	Demonstrate creativity
1-A-3	Exhibit enthusiasm for goal attainment

Benchmark 1-B. Identify and Use Team-Building Strategies	
1-B-1	Share authority appropriately
1-B-2	Be sensitive to feedback and use it to understand yourself
1-B-3	Cultivate mentoring relationships with individuals in their entrepreneurial areas

Benchmark 1-C. Demonstrate the Importance of Entrepreneurship in the Economy	
1-C-1	Define entrepreneurs
1-C-2	Explain what entrepreneurs do
1-C-3	Describe opportunities that led to the development of successful entrepreneurial endeavors

Benchmark 1-D. Identify Long-Term Goal and Short-Term Objective for Self-Improvement	
1-D-1	Recognize and apply criteria for self-development
1-D-2	Explain the meaning of self-esteem
1-D-3	Explain the impact of conflict between real-life experiences and a person's self image
1-D-4	Confront the reality of mistakes or failures and at the same time maintain self-esteem
1-D-5	Visualize improvements in their personality that will allow them to reach their full potential
1-D-6	Develop plans for achieving self-improvement goals and objectives

Benchmark 1-E. Recognize Ideas and Methods Needed for Professional Development	
1-E-1	Explore career opportunities in business and entrepreneurship based on current/future economy
1-E-2	Identify and utilize sources for career information
1-E-3	Utilize resources that can contribute to professional development (e.g., trade journals, professional trade associations, seminars, trade shows, mentors, etc.)

C. Standard 2. Students will examine thought processes and behaviors associated with entrepreneurship.

Benchmark 2-A. Use the Decision-Making Process to Develop a Career Plan	
2-A-1	Explain the decision making process

Benchmark 2-B. Recognize Effective Time-Management Strategies	
2-B-1	Discuss the benefits of time management strategies

Benchmark 2-C. Identify Business Etiquette	
2-C-1	Discuss the importance of etiquette
2-C-2	Distinguish between appropriate and inappropriate etiquette

Benchmark 2-D. Assess the Opportunities for a New Business	
2-D-1	Demonstrate an understanding of entrepreneurial discovery
2-D-2	Describe idea generation
2-D-3	Generate venture ideas
2-D-4	Determine feasibility of ideas

Benchmark 2-E. Examine Financing Opportunities	
2-E-1	Determine and assess the opportunities for venture creation
2-E-2	Define start
2-E-3	Compare the relationship of financing to other entrepreneur functions
2-E-4	Discuss the importance of building financial relationships
2-E-5	Compute the cost of credit
2-E-6	Compute the cost of extending credit

Benchmark 2-F. Develop Exit Strategies	
2-F-1	Explain the need for continuation planning
2-F-2	Describe methods of venture harvesting

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§303. Strand Two: Essential Skills**

A. Focus. Essential skill sets are necessary for start-up and management of a successful business. This strand focuses on the student's ability to understand and effectively analyze various business concepts. In addition, it reinforces the importance of developing communication and interpersonal skills.

B. Standard 3. Students will understand and analyze effective business decision-making concepts.

Benchmark 3-A. Examine Entrepreneurial Functions and Their Economic Impact	
3-A-1	Research the role of business in society
3-A-2	Classify the types of business activities

Benchmark 3-B. Evaluate Management Concepts	
3-B-1	Describe crucial elements of a quality culture/continuous quality improvement
3-B-2	Describe the role of management in the achievement of quality
3-B-3	Identify and compare the types of business ownership
3-B-4	Explain opportunities for creating added value
3-B-5	Determine issues and trends in business
3-B-6	Describe the need for and impact of ethical business practices

C. Standard 4. Students will understand and demonstrate basic communication and interpersonal skills.

<b>Benchmark 4-A. Apply the Components of Effective Written and Oral Communication</b>	
4-A-1	Apply effective persuasive techniques
4-A-2	Deliver oral presentations
4-A-3	Demonstrate procedures for following informational messages/ instructions
4-A-4	Demonstrates an understanding of ethics in communication

<b>Benchmark 4-B. Demonstrate the Elements Essential to Interpersonal Communication</b>	
4-B-1	Explain stress management
4-B-2	Demonstrates procedures for conducting meetings
4-B-3	Demonstrate problem solving and conflict resolution skills
4-B-4	Demonstrates ways to show empathy
4-B-5	Utilize negotiation skills
4-B-6	Demonstrate appropriate assertiveness
4-B-7	Demonstrate an understanding of customer relations

D. Standard 5. Students will comprehend basic technology concepts.

<b>Benchmark 5-A. Compare/Contrast Ways Entrepreneurs Use Technology</b>	
5-A-1	Discuss the Internet as a business opportunity
5-A-2	Explain the nature of e-commerce
5-A-3	Discuss electronic training

E. Standard 6. Students will examine and apply basic financial concepts.

<b>Benchmark 6-A. Examine Economic Indicators</b>	
6-A-1	Explain the concept of economic relations
6-A-2	Explain the principle of supply and demand and opportunity cost
6-A-3	Analyze forms of economic utility

<b>Benchmark 6-B. Analyze The Concepts of Labor and Productivity</b>	
6-B-1	Explain the concept of organized labor and business
6-B-2	Explain economic indicators
6-B-3	Examine cost/profit relation

F. Standard 7. Students will use basic personal money management skills, procedures, and strategies.

<b>Benchmark 7-A. Develop a Money Management System</b>	
7-A-1	Determine ways to establish/enhance credit worthiness
7-A-2	Explain forms of financial exchange

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§305. Strand Three: Business Functions**

A. Focus. Business functions tie entrepreneurial endeavors together. This strand focuses on several different but equally important areas of business, including financial management, human resource management, and the marketing of goods and services.

B. Standard 8: Students will identify and analyze concepts and practices needed to make sound financial decisions.

<b>Benchmark 8-A. Compare the Relationship of Financial Activity to Long-Term Business Success</b>	
8-A-1	Identify the various financing activities
8-A-2	Understand the need for developing financing relationships
8-A-3	Identify and compare types of financing

C. Standard 9. Students will develop and use financial records.

<b>Benchmark 9A. Identify the Processes Involved in an Accounting System</b>	
9-A-1	Identify problems that may arise from poor record keeping
9-A-2	Record journal entries
9-A-3	Prepare an aging table
9-A-4	Complete a bank reconciliation
9-A-5	Identify payroll taxes to be deducted
9-A-6	Complete a payroll register
9-A-7	Create an income statement
9-A-8	Create a cash flow statement
9-A-9	Create a balance sheet

D. Standard 10. Students will understand the function of human resource management.

<b>Benchmark 10-A. Examine the Process of Staffing an Organization</b>	
10-A-1	Identify and understand the laws and regulations which affect the process of staffing organizations
10-A-2	Understand organizational structure
10-A-3	Understand the staffing process by preparing job descriptions
10-A-4	Understand the staffing process by developing recruiting ads
10-A-5	Identify staffing needs
10-A-6	Understand the screening process of applicants
10-A-7	Understand employee compensation

E. Standard 11. Students will understand and apply the concepts, processes, and systems needed to develop and market goods or services.

<b>Benchmark 11-A. Generate, Assess, and Select Product/Service Ideas</b>	
11-A-1	Perform a basic SWOT (strengths, weaknesses, opportunities, threats) analysis
11-A-2	Identify the target market
11-A-3	Identify appropriate research methods
11-A-4	Research and analyze the needs, wants, and expectations of that target market
11-A-5	Research product's ability to meet those needs, wants, and expectations
11-A-6	Identify and perform a basic SWOT analysis of competitors
11-A-7	Determine our competitive advantage and how we better satisfy the needs of customers
11-A-8	Identify strategies for addressing weaknesses and threats revealed through the SWOT analysis
11-A-9	Create a product/service mix
11-A-10	Choose product name for product created

<b>Benchmark 11-B. Develop Strategies for Marketing Goods or Services</b>	
11-B-1	Build brand/image for product created
11-B-2	Create a customer survey to evaluate customer experience
11-B-3	Explain the concept of marketing strategies
11-B-4	Set a marketing budget
11-B-5	Develop marketing plan

<b>Benchmark 11-B. Develop Strategies for Marketing Goods or Services</b>	
11-B-6	Monitor and evaluate performance of marketing plan
11-B-7	Describe the elements of the promotional mix
11-B-8	Write a news release
11-B-9	Select sales promotion options
11-B-10	Develop online promotions (www)
11-B-11	Evaluate effectiveness of advertising
11-B-12	Calculate advertising media costs
11-B-13	Select advertising media
11-B-14	Prepare a promotional budget
11-B-15	Develop promotional plan for a business
11-B-16	Obtain publicity
11-B-17	Write sales letters
11-B-18	Explain factors affecting pricing decisions
11-B-19	Describe the role of business ethics in pricing
11-B-20	Establish pricing objective
11-B-21	Select pricing strategies
11-B-22	Set prices
11-B-23	Calculate breakeven point
11-B-24	Adjust prices to maximize profitability
11-B-25	Establish relationship with client/customer
11-B-26	Determine customer/client needs
11-B-27	Understand steps in selling process
11-B-28	Train staff to support sales efforts
11-B-29	Identify factors to consider when selecting a business site
11-B-30	List sources of information for site selection
11-B-31	Create a floor plan for a selected business

F. Standard 12. Students will demonstrate and evaluate the skills required for the daily operation of a business.

<b>Benchmark 12-A. Develop an Inventory Model</b>	
12-A-1	Identify factors that affect inventory cost
12-A-2	Identify types of inventory systems
12-A-3	Determine how inventory will be managed for a selected business

<b>Benchmark 12-B. Evaluate Operational Policies and Procedures</b>	
12-B-1	Demonstrate procedures for interpreting business policies
12-B-2	Identify policies and procedures needed in a business

G. Standard 13. Students will analyze the information necessary for risk management.

<b>Benchmark 13-A. Determine Ways That Small Businesses Protect Themselves against Loss</b>	
13-A-1	Describe the types of business risk
13-A-2	Determine ways that small businesses protect themselves against loss
13-A-3	Develop security and safety policies/procedures
13-A-4	Understand the types of business insurance
13-A-5	Develop strategies for legal/government compliance

<b>Benchmark 13-B. Explore Options Available to Protect Intellectual Property Rights</b>	
13-B-1	Identify sources of legal advice and address ways to protect intellectual property rights

H. Standard 14. Students will understand how to strategically manage a business.

<b>Benchmark 14-A. Develop and Implement a Business Plan</b>	
14-A-1	Distinguish between a vision statement and a mission statement
14-A-2	Write a vision statement and a mission statement
14-A-3	Write clear goals and objectives

<b>Benchmark 14-A. Develop and Implement a Business Plan</b>	
14-A-4	Conduct a SWOT analysis
14-A-5	Develop action plans
14-A-6	Understand the functions of a business plan
14-A-7	Understand how to re-evaluate a business plan
14-A-8	Develop an exit or harvest strategy for a business

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

### Chapter 5. Curriculum Correlations

#### §501. Correlation of Grade Level Expectations with Entrepreneurship Curriculum

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 1 Lesson A Setting Up Your Portfolio	35	38	33	
Unit 1 Lesson B Functions of a Business Plan	35	38	33	
Unit 1 Lesson C Timeline for the Student Market	4, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43	4, 5, 11, 12, 15, 16, 17, 18, 20, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46	1, 4, 10, 13, 14, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33	
Unit 1 Lesson 1 Entrepreneurial Processes	1, 4, 5, 11, 12, 14, 16, 18, 19, 21, 22, 23, 24, 25, 26	4, 5, 11, 12, 15, 16, 17, 20, 24, 25, 26, 27, 28, 29, 36, 47	1, 3, 10, 13, 17, 18, 21, 22, 23, 24	
Unit 1 Lesson 2 Our Entrepreneurial Heritage	4, 6, 10, 11, 14, 25, 26, 35, 36, 37, 38, 39, 42	4, 5, 11, 25, 26, 27, 28, 29, 39, 40, 42, 46	10, 13, 14, 23, 34, 35, 36, 41	
Unit 2 Lesson 3 Self Esteem	11, 12, 15, 22, 23, 24, 25, 26	4, 6, 9, 11, 19, 23, 24, 25, 36, 27, 28, 29, 33, 46	4, 15, 17, 21, 22, 23, 24,	
Unit 2 Lesson 4 Making Decisions	4, 12, 14, 29, 35	4, 11, 15, 38, 41, 46	17, 21, 24, 33	
Unit 2 Lesson 5 Time Management	1, 12, 14, 25, 27, 30, 35	12, 15, 27, 29, 38, 40, 44	10,13,41	
Unit 2 Lesson 6 Business Etiquette	5, 12, 27, 29, 30, 34	31, 32, 33, 34, 35, 36, 37, 38	25, 26, 27, 28, 29, 30, 31, 32, 33, 41	
Unit 3 Lesson 7 The Global Business	4, 5, 11, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 41, 43	1, 2, 4, 5, 6, 11, 15, 16, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34	1, 2, 3, 10, 13, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35, 36, 37, 38	
Unit 3 Lesson 8 Venture Creation	1, 11, 12, 14, 15, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40	1, 11, 12, 15, 16, 31, 32, 33, 34, 36, 38, 39, 40, 42, 46	1, 3, 7, 10, 13, 14, 17, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 40, 41	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 3 Lesson 9 Business Ideas	1, 4, 6, 11, 12, 14, 15, 21, 22, 23, 24, 25, 26, 29, 37, 38, 39, 41, 42, 43	1, 9, 11, 12, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 37, 39, 40, 41, 42, 44, 46	1, 7, 10, 13, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 32, 33, 36, 39, 40, 41	
Unit 4 Lesson 10 Why Do We Need a Plan?	11, 12, 14, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43	1, 4, 10, 12, 17, 25, 26, 27, 28, 28, 29, 30, 32, 33, 34, 36, 37, 40, 41, 42, 46	10, 15, 16, 19, 21, 22, 23, 24, 25, 26, 29, 31, 34, 37, 38, 40, 41	
Unit 4 Lesson 11 Credit and Your Business	27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42	30, 32, 33, 34, 36, 37, 38	10, 13, 17, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37	
Unit 5 Lesson 12 Start-up Costs	11, 14, 29, 35, 36, 37, 38, 42, 43	5, 11, 30, 31, 32, 38, 39, 40, 42, 46	3, 10, 13, 23, 26, 28, 29, 31, 33, 34, 36, 41	
Unit 5 Lesson 13 Building Financial Relationships	1, 6, 11, 12, 14, 15, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 39, 41, 42, 43,	1, 4, 5, 11, 12, 16, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 46	1, 3, 10, 13, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 37, 38, 39, 40, 41	
Unit 5 Lesson 14 Organized Labor	18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 39, 41, 42, 43,	1, 4, 5, 11, 12, 16, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 46	1, 3, 10, 13, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 37, 38, 39, 40, 41	
Unit 5 Lesson 15 Pricing	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 35, 36, 38, 39, 40, 41, 43	1, 4, 11, 12, 15, 24, 25, 26, 27, 28, 29, 38, 39, 40, 41, 42, 43, 44, 45, 46	1, 3, 4, 10, 13, 20, 21, 22, 23, 24, 33, 36, 37, 38, 40, 41	
Unit 6 Lesson 16 Site Selection and Layout	1, 5, 12, 14, 35, 36, 37, 38, 39, 40, 41, 42, 43	1, 5, 11, 12, 38, 39, 40, 41, 42, 43, 44, 45, 46	1, 3, 10, 13, 20, 33, 34, 35, 36, 37, 38, 39, 40, 41	
Unit 6 Lesson 17 Inventory Management	1, 4, 12, 14, 22, 23, 24, 25, 26, 35, 37, 39, 41, 42, 43	1, 4, 5, 11, 12, 15, 24, 25, 26, 27, 28, 29, 38, 39, 40, 41, 42, 44, 45, 46	1, 3, 10, 13, 17, 21, 22, 23, 24, 33, 34, 35, 36, 37, 38, 39, 40, 41	
Unit 6 Lesson 18 Operating Procedures	1, 15, 21, 22, 23, 24, 25, 26	1, 15, 16, 24, 25, 26, 27, 28, 29	1, 10, 21, 22, 23, 24, 33, 39, 40	
Unit 6 Lesson 19 Risky Business	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30	1, 11, 15, 24, 25, 26, 27, 28, 29, 38	1, 21, 22, 23, 24, 33, 41	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 6 Lesson 20 Security and Safety in Business	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33, 34, 35, 36, 37, 39, 40, 41	
Unit 6 Lesson 21 Business Insurance	1, 4, 5, 11, 12, 14, 15, 21, 23, 24, 25, 26, 27, 29, 37, 38, 39, 41, 42, 43	1, 4, 5, 11, 12, 15, 16, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 38, 39, 40, 41, 44, 46	1, 3, 4, 10, 13, 20, 21, 28, 29, 30, 30, 31, 32, 33, 34, 35, 38, 39, 40, 41	
Unit 6 Lesson 22 Governmental Compliance	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 36, 37, 38, 39, 42, 43	1, 4, 5, 11, 12, 15, 25, 26, 27, 28, 29, 40,	1, 3, 10, 13, 21, 22, 23, 24, 33, 35, 36, 37, 40	
Unit 6 Lesson 23 Protecting Intellectual Rights	1, 4, 5, 11, 12, 14, 21, 22, 23, 24, 25, 26, 36, 37, 38, 39, 42, 43	1, 4, 5, 11, 12, 15, 25, 26, 27, 28, 29, 40	1, 3, 10, 13, 21, 22, 23, 24, 33, 35, 36, 37, 40	
Unit 6 Lesson 24 Personal Mission	1, 11, 12, 14, 15, 21, 22, 23, 24, 25, 26, 29, 35, 36, 37, 37, 41	1, 4, 5, 11, 12, 15, 16, 24, 25, 26, 27, 28, 29, 38, 40, 41, 44	1, 3, 4, 10, 13, 20, 21, 22, 23, 24, 33, 34, 35, 39	
Unit 6 Lesson 25 SWOT Analysis	1, 4, 11, 12, 14, 28, 29, 30, 33, 35, 35, 36, 41, 43	1, 4, 5, 11, 12, 15, 30, 31, 32, 33, 38, 46	1, 3, 10, 13, 19, 20, 25, 26, 27, 28, 33, 35, 36, 38, 41	
Unit 6 Lesson 26 Exit Strategies	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 30, 27, 28, 29, 30, 38, 45, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33, 34, 35, 36, 37, 39, 40, 41	
Unit 7 Lesson 27 Productivity and Your Business	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 7 Lesson 28 Cost Profit Relation	1, 11, 12, 14, 35	1, 4, 5, 11, 12, 15, 38	1, 3, 10, 13, 35	
Unit 7 Lesson 29 Credit Worthiness	1, 11, 12, 14, 35	1, 4, 5, 11, 12, 15, 38	1, 3, 10, 13, 35	
Unit 8 Lesson 30 Financial Documents	1, 4, 5, 11, 12, 14, 35	1, 4, 11, 12, 15, 38	1, 3, 4, 13, 33, 41	
Unit 8 Lesson 31 Break Even Analysis	1, 4, 5, 11, 12, 14, 35	1, 4, 11, 12, 15, 38	1, 3, 4, 13, 33, 41	
Unit 8 Lesson 32 Acme Office Furniture	1, 4, 5, 11, 12, 14, 35, 43	1, 4, 11, 12, 15, 38, 42, 44, 46	1, 3, 4, 13, 20, 33, 37, 41	
Unit 8 Lesson 33 Job Description	1, 4, 5, 11, 14, 15, 22, 23, 24, 25, 26, 35, 36, 40, 41	1, 4, 11, 12, 15, 16, 24, 25, 25, 27, 28, 29, 38, 42	1, 3, 4, 13, 19, 21, 22, 23, 24, 33, 35, 37, 39	
Unit 8 Lesson 34 The Staffing Process	1, 11, 14, 21, 22, 23, 24, 25, 26, 35	1, 4, 11, 15, 24, 25, 26, 27, 28, 29, 38, 44	1, 3, 13, 21, 22, 23, 24, 33, 39	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 8 Lesson 35 Employee Compensation	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 36 Employee Assistance Programs	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 37 Training and Developing Employees	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 8 Lesson 38 Building Morale	1, 11, 12, 14, 21, 22, 23, 24, 25, 26, 35, 41	1, 4, 5, 11, 12, 24, 25, 26, 27, 28, 29, 38, 44	1, 4, 13, 20, 21, 22, 23, 24, 33, 39	
Unit 9 Lesson 39 The Marketing Plan	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 9 Lesson 40 Marketing– Informational Management	1, 5, 6, 11, 12, 14, 15, 22, 23, 24, 25, 26, 35, 41	1, 6, 11, 15, 16, 21, 25, 26, 27, 28, 29, 32, 33, 38, 44	1, 3, 10, 13, 21, 22, 23, 24, 25, 32, 33, 39.	
Unit 9 Lesson 41 Promotional Strategies	1, 5, 11, 12, 14, 15, 16, 19, 21, 22, 23, 24, 25,25, 35, 36, 41, 42	1, 4, 11, 12, 15, 16, 17,24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 38, 44	1, 3, 4, 10, 13, 17, 21, 22, 23, 24,25, 26, 27, 29, 33, 39	
Unit 9 Lesson 42 Advertising Promotions	1, 5, 11, 12, 14, 15, 16, 19, 21, 22, 23, 24, 25,25, 35, 36, 41, 42	1, 4, 11, 12, 15, 16, 17,24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 38, 44	1, 3, 4, 10, 13, 17, 21, 22, 23, 24,25, 26, 27, 29, 33, 39	
Unit 9 Lesson 43 How to Conduct a Meeting	1, 12, 14, 27, 28, 29, 30, 31, 32, 33	1, 6, 30, 31, 32, 33, 34, 35, 36, 37, 39	1, 25, 26, 27, 28, 29, 30, 31, 32	

Lesson	Grade 9	Grade 10	Grades 11, 12	Completed
Unit 9 Lesson 44 Accounting Records	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 10 Lesson 45 Effective Communication	21, 22, 23, 24, 25, 26	24, 25, 26, 27, 28, 29		
Unit 10 Lesson 46 Dealing with Stress	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	
Unit 10 Lesson 47 Problem Solving and Conflict Resolution	12, 35	12, 15, 38	13, 14, 33	
Unit 10 Lesson 48 At What Price?	11, 12, 15, 22, 23, 24, 25, 26,	4, 6, 9, 11, 19, 23, 24, 25, 36, 27, 28, 29, 33, 46	4, 15, 17, 21, 22, 23, 24,	
Unit 11 Lesson 49 Interpreting Business Policies	15, 21, 22, 23, 24, 25, 26, 35	16, 25, 26, 27, 28, 29, 38	21, 22, 23, 24,33, 39	
Unit 11 Lesson 50 Business Ethics	15, 21, 22, 23, 24, 25, 26,28, 29, 31, 32, 33, 35	16, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 38	21, 22, 23, 24, 25, 26, 27, 28, 29, 33	
Unit 11 Lesson 51 Philanthropy: Giving Back to the Community	15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 36, 37, 39	16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 40, 43, 44, 45	14, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 28, 29, 35, 37, 39, 41	
Unit 11 Lesson 52 E-Commerce	1, 4, 5, 11, 12, 14, 15, 19, 21, 22, 23, 24, 25, 26, 30, 33, 35, 37, 41, 42	1, 4, 11, 15, 16, 21, 25, 26, 27, 28, 29, 42, 44, 46	1, 3, 4, 10, 13, 19, 21, 22, 23, 24, 33,34, 35, 36, 37, 39, 40, 41	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:



**§503. Math, Science, and Social Studies Equivalencies  
Correlation with Curriculum**

LESSON	Math			Social Services						
	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	Completed
Unit 1 Lesson A Setting Up Your Portfolio				----	----	----				
Unit 1 Lesson B Functions of a Business Plan				----	----	----				
Unit 1 Lesson C Timeline for the Student Market				----	----	----				
Unit 1 Lesson 1 Entrepreneurial Processes				----	----	----				
Unit 1 Lesson 2 Our Entrepreneurial Heritage				----	----	----				
Unit 2 Lesson 3 Self Esteem				----	----	----				
Unit 2 Lesson 4 Making Decisions				----	----	----				
Unit 2 Lesson 5 Time Management				----	----	----				
Unit 2 Lesson 6 Business Etiquette				----	----	----				
Unit 3 Lesson 7 The Global Business				----	----	----	C-42, C-47	C-42, C-47	C-42, C-47	
Unit 3 Lesson 8 Venture Creation				----	----	----				
Unit 3 Lesson 9 Business Ideas				----	----	----				
Unit 4 Lesson 10 Why Do We Need a Plan?				----	----	----				
Unit 4 Lesson 11 Credit and Your Business				----	----	----				
Unit 5 Lesson 12 Start-Up Costs	28, 30		1	----	----	----	E-4	E-4	E-4	
Unit 5 Lesson 13 Building Financial Relationships		4, 17, 24		----	----	----	E-22 E-23 E-24	E-22 E-23 E-24	E-22 E-23 E-24	
Unit 5 Lesson 14 Organized Labor				----	----	----	E-12 E-19	E-12 E-19	E-12 E-19	
Unit 5 Lesson 15 Pricing				----	----	----	E-22 E-23 E-27 E-28	E-22 E-23 E-27 E-28	E-22 E-23 E-27 E-28	
Unit 6 Lesson 16 Site Selection and Layout				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 17 Inventory Management				----	----	----				
Unit 6 Lesson 18 Operating Procedures				----	----	----	E-15	E-15	E-15	
Unit 6 Lesson 19 Risky Business				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 20 Security and Safety in Business				----	----	----				
Unit 6 Lesson 21 Business Insurance				----	----	----	E-1	E-1	E-1	
Unit 6 Lesson 22 Governmental Compliance				----	----	----	E-1			
Unit 6 Lesson 23 Protecting Intellectual Rights				----	----	----				
Unit 6 Lesson 24 Personal Mission				----	----	----				
Unit 6 Lesson 25 SWOT Analysis				----	----	----	E-6	E-6	E-6	
Unit 6 Lesson 26 Exit Strategies				----	----	----				

LESSON	Math			Social Services						
	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	GR 9	GR 10	GR 11/12	Completed
Unit 7 Lesson 27 Productivity and Your Business				----	----	----	E-7 E-9 E-48	E-7 E-9 E-48	E-7 E-9 E-48	
Unit 7 Lesson 28 Cost Profit Relation				----	----	----				
Unit 7 Lesson 29 Credit Worthiness				----	----	----				
Unit 8 Lesson 30 Financial Documents				----	----	----				
Unit 8 Lesson 31 Break Even Analysis				----	----	----				
Unit 8 Lesson 32 Acme Office Furniture				----	----	----				
Unit 8 Lesson 33 Job Description				----	----	----	E-12	E-12	E-12	
Unit 8 Lesson 34 The Staffing Process				----	----	----	E-10 E-11	E-10 E-11	E-10 E-11	
Unit 8 Lesson 35 Employee Compensation				----	----	----	E-57	E-57	E-57	
Unit 8 Lesson 36 Employee Assistance Programs				----	----	----				
Unit 8 Lesson 37 Training and Developing Employees				----	----	----				
Unit 8 Lesson 38 Building Morale				----	----	----				
Unit 9 Lesson 39 The Marketing Plan				----	----	----	E-8	E-8	E-8	
Unit 9 Lesson 40 Marketing–Informational Management				----	----	----	E-8	E-8	E-8	
Unit 9 Lesson 41 Promotional Strategies				----	----	----				
Unit 9 Lesson 42 Advertising Promotions				----	----	----				
Unit 9 Lesson 43 How to Conduct a Meeting				----	----	----				
Unit 9 Lesson 44 Accounting Records				----	----	----				
Unit 10 Lesson 45 Effective Communication				----	----	----				
Unit 10 Lesson 46 Dealing with Stress				----	----	----				
Unit 10 Lesson 47 Problem Solving and Conflict Resolution				----	----	----				
Unit 10 Lesson 48 At What Price?				----	----	----				
Unit 11 Lesson 49 Interpreting Business Policies				----	----	----				
Unit 11 Lesson 50 Business Ethics				----	----	----				
Unit 11 Lesson 51 Philanthropy: Giving Back to the Community				----	----	----				
Unit 11 Lesson 52 E-Commerce				----	----	----	C-19	C-19	C-19	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**Family Impact Statement**

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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**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 action is being proposed to update career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards.

**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
*** [See Prior Text in CTE Internship I-Logic for Programming]		
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Engineering Design I, II	11-12	1

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:

**Family Impact Statement**

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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

Beth Scioneaux  
Deputy Superintendent  
0803#081

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 128—Entrepreneurship Content Standards Curriculum Framework**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as 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)**

The proposed rule will provide tools necessary to introduce students to the theories and practices of entrepreneurship and will provide instruction needed in order for them to start new businesses. This curriculum, designed to attract high school students to investigate entrepreneurship as a viable career option, addresses the dilemma of losing our graduates to other states for employment.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

More students will begin their careers by building their own businesses in this state, opening avenues for employment, thus improving the economy.

**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 change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as 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)**

The proposed changes are being requested to bring current Career and Technical course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining vocational and engineering knowledge and skills for the workplace.

**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  
Management and Finance  
0803#022

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—Algebra I  
(LAC 28:CXXXI.648)

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*:§648.Algebra I. This revision will allow the area of Algebra I to be added to a standard Louisiana teaching certificate. The option will be included in the Add-On Endorsement Policy of Bulletin 746. This change comes from the demands of NCLB, increased academic standards for students, and the addition of more mathematics requirements for high school graduation.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**

**Chapter 6. Endorsements to Existing Certificates  
Subchapter C. All Other Teaching Endorsement Areas**

**§648. Algebra I**

**A. Eligibility Requirements**

1. Valid Type B or Level 2 Louisiana teaching certificate (requires 3 years of teaching experience).

2. Complete the following professional development programs:

- a. Algebra I Awareness workshop;
- b. Topics for Algebra Leaders and Instructors (TALI) workshop (face-to-face or online); and
- c. Algebra I online modules (the entire series) or an approved college-level mathematics course(s) addressing the same content covered in the Algebra I online modules.

3. Pass the Praxis Middle School Mathematics exam (0069).

4. Pass the Praxis Principles of Learning and Teaching (PLT) 7-12 exam (0524) or a college-level course addressing the same content covered on the Praxis exam.

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 32:1820 (January 2008), amended LR 34:

**Family Impact Statement**

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or 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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for  
State Certification of School Personnel—Algebra I**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This revision will allow the area of Algebra I to be added to a standard Louisiana teaching certificate. The option will be

included in the Add-On Endorsement Policy of Bulletin 746. 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  
0803#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  
The Practitioner Teacher Program Alternative Path to  
Certification (Minimum Requirements)  
(LAC 28:CXXXI.233)

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*:§233, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements). This revision in policy will allow the expansion of the entry points into the Practitioner Teacher Program from one to two. This revision will allow university and private providers the option of admitting candidates into a fall preparation program as well as the spring preparation program. Candidates admitted into the fall session would be employed by Louisiana school districts during the spring and successive fall semester. Currently the Practitioner Teacher Program has only one point of entry into the program, that being the spring semester. This will allow more candidates to enter the alternate preparation program.

#### Title 28

#### EDUCATION

### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. ...

B. Admission to the Program. Program providers work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring semesters for candidates admitted in a summer preparation session and during the spring

semester and successive fall semester for candidates admitted in a fall preparation session. For admission, candidates must:

1. - 6 ...

C. Teaching Preparation (Summer Preparation Session or Fall Preparation Session)

1. All teachers will participate in field-based experiences in school settings while completing the summer/fall courses (or equivalent contact hours).

C.2. - D. ...

1. Practitioner teachers assume full-time teaching positions in districts. During the school year, candidates participate in two seminars (during the fall and during the spring or the spring and fall, depending on entry point) that address immediate needs of the Practitioner Teacher Program teachers, and receive one-on-one supervision through an internship provided by the program providers.

D.2. - J. ...

K. Professional License. A practitioner teacher will be issued a Practitioner License in a specific level and area upon entrance to the program completion of the summer of fall Teacher Preparation session. The practitioner teacher is restricted to the specific level and area as designated on the Practitioner License. He/she will be issued a Level 1 Professional License upon successful completion of all program requirements. After three years of teaching in the area of certification and successful completion of the Louisiana Teacher Assistance and Assessment Program, he/she will be eligible for a Level 2 license.

L. ...

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 32:1790 (October 2006), amended LR 34:

#### Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or 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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 746—Louisiana Standards for  
State Certification of School Personnel  
The Practitioner Teacher Program Alternative Path to  
Certification (Minimum Requirements)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This revision in policy will allow the expansion of the entry points into the Practitioner Teacher Program from one to two. This revision will allow university and private providers the option of admitting candidates into a fall preparation program as well as the spring preparation program. Candidates admitted into the fall session would be employed by Louisiana school districts during the spring and successive fall semester. 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  
0803#020

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 904—Guidelines for Submission of a  
Charter School Proposal (LAC 28:XXIII)**

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 the repeal of *Bulletin 904—Guidelines for Submission of a Charter School Proposal*. Bulletin 904 will be repealed in its entirety and all regulatory policy regarding charter schools will be contained in *Bulletin 126—Charter Schools* (LAC 28:CXXXIX), to be adopted in the next several months. The repeal of Bulletin 904 will have no effect on charter schools, the Board of Elementary and Secondary Education, or the Department of Education

**Title 28  
EDUCATION**

**Part XXIII. Bulletin 904—Guidelines for Submission of  
a Charter School Proposal**

Repealed.

**Family Impact Statement**

In accordance with Sections 953 and 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

Family Impact Statement on the Rule proposed for adoption, repeal or amendment. 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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 904—Guidelines for  
Submission of a Charter School Proposal**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Bulletin 904, *Guidelines for Submission of a Charter School Proposal*, is being repealed. Provisions therein have been addressed in a new Charter School Bulletin, Bulletin 126. The repeal of Bulletin 904 will have no effect on charter schools, the Board of Elementary and Secondary Education, or the Department of Education.  
This action will have no fiscal effect other than \$136.00 for advertising in the Louisiana Register.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This action will have no effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This action will have no effect on cost and /or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This action will have no effect on competition and employment.

Beth Scioneaux  
Deputy Director  
0803#018

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment  
Standards and Practices  
(LAC 28:CXI.305,307, 312, 501, 511, 701, 1801, and 2501)

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 118—Statewide Assessment Standards and Practices*: §305. Test Security Policy, §307. Change of District Test Coordinator Notification, §312. Administrative Error, §501. District Test Coordinator Role, §511. School Test Coordinator Role, §701. Overview of Assessment Programs in Louisiana, §1801. Description, and §2501. General Provisions.

*Bulletin 118—Statewide Assessment Standards and Practices* contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. These revisions 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 guidelines to the test security policy, responsibilities of district and school test coordinators, end-of-course tests. New policy language updates were made to the statewide assessment programs' chart and field testing.

#### Title 28

#### EDUCATION

#### Part CXI. Bulletin 118, Statewide Assessment Standards and Practices

#### Chapter 3. Test Security

#### §305. Test Security Policy

A.-A.14. ...

a. The Louisiana Department of Education's LEAPdata Query is designed for teachers and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. The system is not for public use, and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to these systems must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>.

14.a.i. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:

#### §307. Change of District Test Coordinator Notification

A. ...

1. The former district test coordinator must inform the new district test coordinator of passwords for LEAPweb and LEAPdata, location of placement tests, and location of "Old" GEE testing materials.

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 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007).

#### §312. Administrative Error

A. - B. ...

C. If administrative errors result in a question of the accuracy of the test data, the LEA superintendent or the parent, or legal guardian of an affected student may initiate a request for an opportunity to retest prior to the next scheduled test administration. The LEA superintendent or parent must provide the state superintendent of education with school- and student-level documentation describing the administrative error.

D. If the LDE determines that an administrative error that allows for a retest did occur the tests will be voided. LDE will notify the LEA of the determination and of arrangements for the retest. The LEA must provide a corrective plan of action.

E. - F. ...

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 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:

#### Chapter 5. Test Coordinator Responsibilities

#### Subchapter A. District Test Coordinator

#### §501. District Test Coordinator Role

A.1. - A.2.u.ii. ...

v. confirming that TA numbers have been assigned at each school for each scheduled test administration;

w. distributing passwords annually to each school's STC.

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 31:1533 (July 2005), amended LR 33:258 (February 2007).

#### Subchapter B. School Test Coordinator

#### §511. School Test Coordinator Role

A. - A.20. ...

21. assigning TA numbers before scheduled test administrations.

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 31:1533 (July 2005), amended LR 33:258 (February 2007).

**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)
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, 6, 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 and spring 2008
<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

Name of Assessment Program	Assessment Population	Administered
LAA 1 (Revised)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11.	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
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:

**Chapter 18. End-of-Course Tests**

**§1801. Description**

A. The tests which are both criterion-referenced and standards-based assessments will be available online to high school students beginning fall 2007. The tests will be phased in over a period of five years beginning with Algebra I. In the first years of administration, policies regarding the use of EOCT results shall be determined by the district’s local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in the high school courses:

1. - 8. ...

B. Any student enrolled in and/or receiving credit for an EOCT course, regardless of grade inclusive of middle school students taking high school courses for high school credit is required to take the EOCT upon completion of that course.

C. - D. ...

E. 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 2008, the English II field tests will be administered.

F. Students completing the following courses will take the Algebra I test:



1. Algebra I: course code 160321;
2. Algebra I, Part 2: course code 160338;
3. Integrated Mathematics I: course code 160339;
4. Algebra I—Middle School: course code 160380.

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 33:258 (February 2007), LR 34:

## Chapter 25. Field Testing

### §2501. General Provisions

A. - A.3. ...

4. End-of-Course Tests (EOCT)

B. - C.2.f.iii. ...

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 31:1557 (July 2005), amended LR 32:239 (February 2006), LR 34:

### 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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

The proposed rule change will provide new and updated statewide test information and edit guidelines to test security policy. The proposed rule change will have no implementation cost 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 at the state or local governmental levels.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

There should be no effect on costs and/or economic benefits to directly affected persons or Non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

There should be no impact on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0803#023

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework Students Teaching and Reaching (STAR) II (LAC 28:CXXV.1501, 1701, and 1901-1915)

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 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework: Subpart 3. Students Teaching and Reaching (STAR) II*. The proposed addition of Subpart 3 to the career and technical course offerings is designed to serve as an expansion of the concepts presented in STAR I for schools offering a two-year program in teacher preparation. Students will develop skills of being reflective practitioners, teacher/leaders, and civic advocates for education and educational equity. The action is being proposed to update career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards. STAR II is designed to encourage secondary students to examine teaching as a career and in effect, improve the state of Louisiana.

### Title 28 EDUCATION

#### Part CXXV. Bulletin 121—Students Teaching and Reaching (STAR)

#### Content Standards Curriculum Framework

#### Subpart 3. Students Teaching and Reaching (STAR) II Chapter 15. General Provisions §1501. Introduction

A. In an effort to confront the national crisis of "Teacher Shortage", Louisiana has been offering secondary courses in teacher preparation for over 10 years. Through a consolidated effort between the Louisiana Department of Education (LDOE), Northwestern State University (NSU), and the Consortium for Education, Research, and Technology of North Louisiana (CERT), a committee of various educators was formed. This committee has compiled a complete curriculum titled, STAR-Students Teaching and

Reaching, to serve as the one teacher preparation course to be used by secondary teachers in Louisiana. Students Teaching and Reaching II (STAR II) provides an expansion of the concepts presented in STAR for schools offering a two-year program in teacher preparation.

B. The STAR II curriculum is designed to continue the development of teaching skills begun in STAR, emphasizing lesson planning and assessment development with an opportunity for expanded, meaningful field experiences, including national and state critical shortage areas. This curriculum may include designing individual internships or collaborating to create a service-learning project with school or community partners. Students will develop the skills of being reflective practitioners, teacher/leaders, and civic advocates for education and educational equity. They will be given tools that help them manage what is one of the most important and ever-changing careers.

C. STAR II:

1. attracts high school students to explore teaching as a career and addresses the teacher shortage. Based on Louisiana’s occupational forecast, there is an annual demand for over 2,200 teachers. STAR II continues nurturing young people’s interest in teaching;

2. offers a standards-based curriculum. STAR II is a challenging, authentic curriculum that is aligned with the Louisiana Content Standards, Foundation Skills, National Council for Accreditation of Teacher Education (NCATE), and Louisiana Components of Effective Teaching;

3. serves as a recruitment and retention tool for Louisiana schools and universities through articulation agreements; and

4. provides structured field experiences which allow the STAR II students to assume more ownership. STAR II encourages students to consider teaching in elementary, middle, and high schools, as well as in critical shortage areas such as math, science, and special education.

D. The goal of STAR II is to encourage secondary students to examine teaching as a career and, in effect, improve the state of Louisiana.

E. Course Description

1. STAR II curriculum is designed to continue the development of teaching skills begun in STAR I, emphasizing lesson planning and assessment development with an opportunity for expanded, meaningful field experiences, including national and state critical shortage areas. This curriculum may include designing internships or collaborating to create a service-learning project with school or community partners. Students will develop the skills of being:

- a. reflective practitioners;
- b. teachers/leaders; and
- c. civic advocates for education and educational equity.

2. Students will be given tools that help them manage what is one of the most important and ever-changing careers.

F. Prerequisite—STAR I

G. Course Code—080101

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**Chapter 17. Objectives**

**§1701. Objectives**

STAR—Students Teaching and Reaching Objectives	
1A-1	Develop a working definition of moral leadership.
1A-2	Examine components of moral leadership and relate them to students’ development of personal ethics.
1B-1	Create moral leadership life journey maps.
1B-2	Create personal moral leadership statement.
1C-1	Identify major educational philosophies and ethics.
1C-2	Apply educational philosophies and ethics to classroom situations.
1C-3	Develop personal leadership growth plan.
1D-1	Develop a teaching philosophy that incorporates personal values.
1D-2	Expand teaching philosophy to include professional ethics and moral leadership.
1E-1	Describe characteristics of critical friends groups (CFG).
1E-2	Relate characteristics of CFG to leadership goals.
1E-3	Plan process for how critical friends groups will operate.
1E-4	Relate characteristics of self-efficacy to teaching effectiveness, persistence, and CFG.
2A-1	Research lesson plans to find lesson plans that address student thinking preferences.
2A-2	Analyze lesson plans to determine whether all student thinking preferences have been addressed.
2B-1	Create lesson plans that address all student thinking preferences.
2B-2	Demonstrate the use of a variety of resources to create lesson plans that address all student preferences.
3A-1	Identify characteristics of major categories of students with exceptionalities.
3A-2	Research and identify needs of students with exceptionalities through a detailed student profile.
3B-1	Research and list teaching strategies to facilitate constructing and teaching a differentiated lesson that will differentiate between age-appropriate and developmentally appropriate learning materials.
3B-2	Research "best practice" for facilitating learning of students with exceptionalities.
3C-1	Construct and teach differentiated lesson for students with exceptionalities.
3C-2	Incorporate lesson activities that address students’ individual strengths.
4A-1	Observe behavior management plans in classrooms.
4A-2	Analyze behavior management plans in classrooms.
4B-1	Analyze personal time management skills.
4B-2	Integrate technology to create an effective time management plan.
4C-1	Observe patterns of traffic and student interaction in classroom physical environments.
4C-2	Analyze patterns of traffic and student interaction in classroom physical environments.
5A-1	Describe characteristics of problem-based learning.
5B-1	Develop a lesson plan implementing either: problem-based learning; project-based learning; or inquiry-based learning.
5B-2	Teach a problem-based, project-based, or inquiry-based lesson.
5C-1	Identify the elements of a cross-discipline lesson.
5D-1	Implement a cross-discipline lesson plan.
6A-1	Identify components of Web Quest.
6A-2	Create a Web Quest lesson that meets specified higher-level learning targets.
6A-3	Teach a Web Quest lesson.
7A-1	Review basic parts of lesson plans (i.e., anticipatory set, modeling, guided practice, independent practice, evaluation, closure).
7B-1	Identify components of a rubric.
7B-2	Design a rubric that is adaptable to different types of lessons.
8A-1	Define characteristics of teacher professional development.

STAR—Students Teaching and Reaching Objectives	
8A-2	Develop qualities of teacher professionalism into toolkit.
8A-3	Define professional development growth plan (PDGP).
8A-4	Identify components of PDGP.
8B-1	Locate and synthesize skill-building training opportunities.
8B-2	Develop an implementation plan for PDGP.
8C-1	Demonstrate the roles that teachers play in the classroom.
8C-2	Analyze the roles that teachers play in the classroom.
8C-3	Identify the qualities of reflective practice.
8C-4	Identify the constraints of becoming reflective.
8D-1	Develop an action plan to implement new practice/strategies/actions as part of lessons.
8E-1	Identify need of a community partner school.
8E-2	Develop a service learning proposal.
8E-3	Submit a service learning proposal for approval and implementation.
8F-1	Identify the differences and similarities in the Louisiana Center for Educational Technology (LCET), Interstate New Teacher Assessment and Support Consortium (INTASC), and National Board of Professional Teaching Standards (NBPTS) assessments.
8G-1	Implement a test review strategy in preparation for PRAXIS and teacher licensure.
9A-1	Identify educational policy such as, "No Child Left Behind" (NCLB).
9B-1	Describe the stages of development in the relationship between educational policy and court case decisions.
9B-2	Develop a flowchart for a strategic plan to address a specific concern from NCLB.
10A-1	Identify components of school improvement plans.
10B-1	Research and critique at least one school improvement plan using evaluative standards based on research.
10C-1	Interpret a School Performance Score (SPS) and compare this data to the school improvement plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**Chapter 19. Strands, Standards, Benchmarks, and Objectives**

**§1901. Strand 1. Self-Efficacy**

A. Focus. Students will identify personal characteristics and values that will empower them to be effective, productive, visionary educators who are committed to developing students who are life-long learners and productive citizens.

1. Standard 1. STAR II students will identify and analyze elements of moral leadership and professional ethics.

Benchmarks	Standards
1A	The student will identify characteristics of moral leadership.
B	The student will demonstrate the qualities of moral leadership (vision, service, etc.) and character building (fairness, trustworthiness, caring, respect, responsibility, and citizenship).
1C	The student will identify attributes of major educational philosophies and ethics and apply them in classroom situations.
1D	Building on personal philosophy, students will develop a philosophy of education that includes standards for personal and professional ethics and moral leadership.
1E	The student will identify elements of teacher self-efficacy and practice techniques to build it.

2. Standard 2. STAR II students will design projects that demonstrate qualities of moral leadership and professional ethics.

Benchmarks	Standards
2A	Students will identify components of service learning.
2B	Students will organize and lead a service learning project demonstrating qualities of moral leadership and professional ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1903. Strand 2. The Diverse Learner**

A. Focus. This strand naturally follows that of Self Efficacy. Once the STAR II student has been empowered to be a productive, visionary educator, he/she is prepared to explore the development of cognitive processes in all students.

1. Standard 3. STAR II students will identify and analyze differences and similarities in the way students learn.

Benchmarks	Standards
3A	Students will develop instruction for inclusion and exceptional students.
3B	Students will differentiate between age appropriate and developmentally appropriate learning materials.

2. Standard 4. STAR II students will apply the differences and similarities in ways that students learn in large and small group instruction.

Benchmarks	Standards
4A	Students will identify and integrate the strengths that each individual brings to a lesson to maximize the learning of all students.
4B	Students will analyze lesson plans to determine whether all student thinking preferences have been addressed.
4C	Students will construct lesson plans that engage all students in the learning process by addressing all thinking preferences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1905. Strand 3. Management**

A. Focus. The focus of this strand is to build on the student's understanding of the crucial role of management in effective teaching and learning. This management includes ways of developing behavior management plans, time management plans, stress management plans, and classroom management as it affects teaching and learning.

1. Standard 5. STAR II students will demonstrate knowledge of diverse approaches to management.

Benchmarks	Standards
5A	Students will develop an age/developmentally appropriate classroom/behavior management plan.
5B	Students will apply the tools of time management to their personal and classroom schedules.
5C	Students will apply the tools of stress management to their personal and classroom experiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1907. Strand 4. Instructional Design**

A. Focus. Once STAR II students understand themselves both as learner and teacher, they are ready to collaborate with peers to develop problem-based, cross-discipline, differentiated lessons, using scientifically-based strategies.

1. Standard 6. STAR II students will identify elements of problem-based, cross-discipline, differentiated lessons and construct lessons based on these elements.

Benchmarks	Standards
6A	Students will identify and describe components of problem-based learning.
6B	Students will construct and teach problem-based lessons.
6C	Students will identify elements of cross-discipline lessons.
6D	Students will construct and teach cross-discipline lessons.
6E	Students will identify and describe elements of differentiated lessons.
6F	Students will construct and teach differentiated lessons for students with exceptionalities (including the range from gifted/talented to students with disabilities.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1909. Strand 5. Technology**

A. Focus. In order to produce citizens who are able to deal with the rigors of a highly technological world, STAR II students must be versed in a variety of methods to integrate technology in learning facilitated by research-based strategies.

1. Standard 7. STAR II students will utilize technology to enhance student learning, educational research, and their growth as a future professional.

Benchmarks	Standards
7A	Students will use available technology to develop a Web Quest lesson as well as other technology-enriched lessons.
7B	Students will be able to use available technology to gather and analyze data for educational research topics.
7C	Students will identify elements of their professional development that can be enhanced through technology-training and design their own growth plan.
7D	Students will identify and explore elements of grant-writing and grant-writing resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1911. Strand 6. Field Experiences**

A. Focus. The focus of this strand is to build on STAR II students' previous field experience by providing opportunities to assume more ownership in their field experience. This may include designing their own

internships or collaborating to create a service-learning project with school or community partners.

1. Standard 8. STAR II students will participate in a variety of field experiences and provide leadership in developing service learning projects.

Benchmarks	Standards
8A	Students will reflect on previous field experiences and expand their expertise beyond the previous field experience during their STAR I year.
8B	Students will construct and teach a minimum of three lessons and be responsible for major project components during each field experience.
8C	Students will collaborate with STAR II program teacher and peers to develop appropriate student assessment rubrics for each lesson.
8D	Students will collaborate with STAR II program teacher to develop student demonstration practice teaching experiences for STAR students (in cases where classes run concurrently).
8E	Students will be trained in the implementation and use of PASSPORT as a field experience documentation tool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1913. Strand 7. Professionalism**

A. Focus. STAR II students must develop skills of being reflective practitioners; teacher/leaders; and civic advocates for education and educational equity.

1. Standard 9. STAR II students will examine the roles and attributes of teaching professionals, reflective practitioners, educational leaders, and civic advocates for education and educational equity.

Benchmarks	Standards
9A	Students will identify qualities of a reflective practitioner.
9B	Students will demonstrate their ability to revise lesson plans, unit plans, etc., based on peer feedback and self-reflection.
9C	Students will be able to evaluate a classroom setting using the Louisiana Components of Effective Teaching (LCET) instrument.
9D	Students will describe and apply elements of site-based decision making and teacher/leader roles in collaborative decision making.
9E	Students will collaborate with community partners to develop a service learning project that addresses specific learning needs in the school community.
9F	Students will research information on the NBPTS accreditation process and compare it to Louisiana Teacher Assistance and Assessment Program (LaTAAP) and LCET.
9G	Students will review and practice sections of the PRAXIS using the ETS Testreview website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**§1915. Strand 8. Educational Policy and Governance**

A. Focus. Based on No Child Left Behind, it is essential that students be able to develop instruction that insures that all students learn. As a result, the federal government is now mandating specific legislation and policy to guide

instruction. The student will become familiar with procedures that are used in this process.

1. Standard 10. STAR II students will examine and critique educational policy and governmental structure of American education.

Benchmarks	Standards
10A	Students will research how an educational policy is developed as well as how it impacts teaching and learning in schools.
10B	Students will review educational case law related to selected educational policy and report how policy has evolved based on court decisions.

2. Standard 11. STAR II students will analyze the reasons and processes for school improvement.

Benchmarks	Standards
11A	Students will identify the components of change theory and apply them to school improvement.
11B	Students will explore and critique different school improvement models.
11C	Students will interpret data from the Louisiana Department of Education school performance scores and compare it to the information in a school improvement plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:

**Family Impact Statement**

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.

Interested persons may submit written comments until 4:30 p.m., May 9, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework—Students Teaching and Reaching (STAR) II**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no known additional costs to state governmental units. It is unknown at

this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as 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)**

Implementation of this proposed rule will provide tools necessary to train students in the development of teaching skills and will nurture young people's interest in a teaching career which will ultimately enhance education in Louisiana.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

More students will begin their careers in this state, opening opportunities for employment, thus improving the economy.

Beth Scioneaux  
Deputy Superintendent  
0803#082

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, 301, 507, 703 and 705)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, and LSA-R.S. 17:3048.1).

This rulemaking will amend the Tuition Opportunity Program for Students (TOPS) requirement to earn at least 24 hours each academic year to allow hours earned in intersessions that end during the academic year to be included, will extend the deadline for submission of supplementary documents in support of an application for TOPS from a student who first enrolled as a full time student in an approved out-of-state college or university and now wants to enroll in an eligible Louisiana college or university and will correct a typographical error.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972. (SG0893NI)

**Title 28  
EDUCATION**

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

**Chapter 3. Definitions**

**§301. Definitions**

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Academic Year (College)*—the two- and four-year college and university *academic year* begins with the fall

term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the *academic year* are included in the academic year. The two- and four-year college and university academic year does not include summer sessions or intersessions that do not end during the academic year.

\* \* \*

*Application to Return from an Out-of-State College*— A form that must be submitted by students who first enroll full time in an accredited out-of-state college or university and who then return to an eligible Louisiana college or university and want to apply for TOPS eligibility.

\* \* \*

**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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:

## **Chapter 5. Applications, Federal Grant Aid and ACT Test**

### **§507. Final Deadline for Submitting Documentation of Eligibility**

A. - B.2. ...

C. Returning Students

1 - 2. ...

3.a. Returning students, who enroll in an eligible college or university in academic year (college) 2005-2006 or academic year (college) 2006-2007, must submit documentation that establishes TOPS eligibility no later than the April 15 immediately following the July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university.

b. Returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (college), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.

ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line

application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. - 3. ...

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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:.

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

### **§703. Establishing Eligibility**

A. - H.1.b. ...

c. he enrolled in an eligible college or university no later than the next semester or term, excluding summer sessions and intersessions, immediately following the last semester he was enrolled in the out-of state college or university.

H.2. - 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:

### **§705. Maintaining Eligibility**

A. - A.5. ...

6. minimum academic progress:

a. in an academic undergraduate program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (college), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits.

Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

A.6.b. - E.3. ...

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 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:

Interested persons may submit written comments on the proposed changes (SG0893NI) until 4:30 p.m., April 9, 2008, 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)**

The first proposed change allows hours earned during intersessions ending during the academic year to be included in the 24 hour requirement for the Tuition Opportunity Program for Students Program. The proposed intersession change will not result in a significant increase in expenditures, primarily because the change does not alter the current rules concerning payment of TOPS awards. The other change will extend the deadline for certain students whose TOPS awards were denied because documentation required to support their applications was not received by the current deadline. It is estimated that a maximum of five (5) students would have their TOPS eligibility restored at a cost \$16,640 for the current fiscal year for a total cost of \$43,169 over three years.

#### **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 helps students obtain post-secondary education. The higher level of education or technical training for students will have a positive impact on their earning potential and make them more marketable in the job market, thus eligible for higher paying jobs. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana thus providing additional better paying jobs.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The TOPS program affected by these changes allows students to seek post-secondary education. Any 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  
0803#004

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Interstate Rule  
(LAC 33:III.506)(AQ292)

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 Air regulations, LAC 33:III.506 (Log #AQ292).

This revision for the Clean Air Interstate Rule (CAIR) nitrogen oxide (NO<sub>x</sub>) trading programs allocation methodology addresses the following issues: updates citations to all federal revisions to the CAIR; revises and adds definitions; provides that allowances for petroleum coke-fired electrical generating units (EGUs) are to be calculated using the same methodology as allowances for coal-fired EGUs; adds a provision for repowered utility units; adds a provision for the reclassification of units from utility to non-utility and vice versa; and adds language to cease allocation of NO<sub>x</sub> allowances to certified units that are not built (If the unit does not commence operations by a certain date, then the permit becomes void. Once the permit is void, no additional allocations will be made.). EPA promulgated a CAIR Federal Implementation Plan (FIP) on April 28, 2006, which allows a state to allocate CAIR NO<sub>x</sub> allowances in a manner that is different from the FIP. The initial state allocation rule was promulgated on August 20, 2007. Since that time the department has determined that some operating circumstances were inadvertently omitted, and these are included in this revision. In this rulemaking the department is also updating the regulations to include the latest changes to the federal program. This rule is also being proposed as a revision to the air quality CAIR State Implementation Plan (SIP). The basis and rationale for this proposed rule are to improve air quality through the reduction of intrastate and interstate emissions of NO<sub>x</sub> from electrical generating units. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33 ENVIRONMENTAL QUALITY Part III. Air

#### Chapter 5. Permit Procedures §506. Clean Air Interstate Rule Requirements

A. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO<sub>x</sub>) Annual Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR

Federal Implementation Plan (FIP) NO<sub>x</sub> Annual Trading Program on April 28, 2006, at 71 FR 25328 and as amended on October 19, 2007, at 72 FR 59190. All provisions of 40 CFR Part 97, Subparts AA-HH, continue to apply, with the exception of §97.141 (Timing Requirements for CAIR NO<sub>x</sub> Allowance Allocations) and §97.142 (CAIR NO<sub>x</sub> Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> annual allowances shall be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), except for those terms defined herein.

*Certified Unit*—an electricity-generating unit that has been certified by the LPSC or approved by a municipal authority but was not in operation on, or approved by, December 31, 2004.

*Certified Unit or Contract*—Repealed.

\*\*\*

*Electric Public Utility*—any person furnishing electric service within this state, including any electric cooperative transacting business in this state, provided, however, that the term shall not be construed to apply to co-generators who consume any or all of the electric power and energy generated by such facility or independent power producers who sell the entire production of electric power and energy generated by such facility to an *electric public utility* as herein defined.

*Fuel Types*—for the allocation of allowances under Louisiana's program, *fuel types* include solid, gaseous, or liquid fuel. The following definitions apply to *fuel types*.

i. *Solid Fuel*—includes, but is not limited to, coal and petroleum coke. Any amount of solid fuel that is combusted, alone, in series, or in combination with any other fuel, during any control period shall meet the definition of solid fuel.

ii. *Gaseous Fuel*—includes, but is not limited to, natural gas, propane, coal gas, and blast furnace gas. Any mixture containing at least 50 percent of gaseous fuel that is combusted with any liquid fuel during any control period shall meet the definition of gaseous fuel.

iii. *Liquid Fuel*—includes, but is not limited to, petroleum-based oils and glycerol.

\*\*\*

*LPSC or Municipal Certification*—the process under which the LPSC certifies, or the relevant municipal authority approves, construction, conversion, or repowering of an electricity-generating unit as being in the public convenience and necessity. This process includes the certification or approval of long-term contracts that dedicate a portion of the electrical output of any generation facility to a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

\*\*\*

*Utility Unit*—a certified unit that is in operation, a previously-operational certified unit, a non-utility unit purchased by an electric public utility, or a non-utility unit that has an effective and active long-term contract with a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or



utility unit expects to receive power under the contract within one year of the contract execution.

2. - 2.a....

b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO<sub>x</sub> allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO<sub>x</sub> allowances have been previously allocated until operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three calendar years of operating data immediately preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The certified unit shall be treated as a utility unit for the purposes of this allocation, except that converted heat input shall be used instead of adjusted heat input. Repowered utility units will be allocated in the same manner as certified units in the control period of certification. Converted heat input is calculated as follows.

i. For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. Utility Units. The department shall allocate CAIR NO<sub>x</sub> allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> budget for Louisiana (40 CFR 97.140), minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted heat input of the CAIR utility unit to the total amount of adjusted heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The adjusted heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> annual allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and

2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is solid fuel-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is liquid fuel-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, fuel type, and total tons of NO<sub>x</sub> emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. - 3.b....

4. Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances, beginning with the next allocation period, using the new classification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without written notification from the electric public utility.

B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO<sub>x</sub>) Ozone Season Program. This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO<sub>x</sub> Ozone Season Trading Program on April 28, 2006, at 71 FR 25328 and as amended on October 19, 2007, at 72 FR 59190. All provisions of 40 CFR Part 97, Subparts AAAA–HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO<sub>x</sub> Ozone Season Allowance Allocations) and §97.342 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> ozone season allowances shall be allocated in accordance with this Section and 40 CFR 97.343(a).

1. - 2.a....

b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO<sub>x</sub> allowances for the ozone season of the control period in which the unit will begin operation, and for each successive ozone season in a control period, for which no NO<sub>x</sub> allowances have been previously allocated until ozone season operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The certified unit shall be treated as a utility unit for purposes of this allocation, except that ozone season converted heat input shall be used instead of ozone season adjusted heat input. Repowered utility units will be allocated in the same manner as certified units in the control period of certification. Ozone season converted heat input is calculated as follows.

i. For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900

BTU/KWh and divided by 1,000,000 BTU/MMBTU, or the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

ii. For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU, or the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

c. Utility Units. The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> ozone season budget for Louisiana (40 CFR 97.340), minus the allowances allocated under Subparagraph B.2.a of this Section, by the ratio of the ozone season adjusted heat input of the CAIR utility unit to the total amount of ozone season adjusted heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The ozone season adjusted heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> ozone season allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is solid fuel-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is liquid fuel-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, fuel type, and total tons of NO<sub>x</sub> ozone season emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. - 3.b....

4. Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances, beginning with the next allocation period, using the new classification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without written notification from the electric public utility.

C. Annual Sulfur Dioxide. Except as specified in this Section, the Federal SO<sub>2</sub> Model Rule, published in the *Code of Federal Regulations* at 40 CFR Part 96, July 1, 2006, and as revised at 72 FR 59190-59207, October 19, 2007, is hereby incorporated by reference, except for Subpart III-CAIR SO<sub>2</sub> Opt-in Units and all references to opt-in units.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the CAIR SIP to incorporate this proposed rule. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ292. Such comments must be received no later than May 1, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). 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 AQ292. 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).

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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Clean Air Interstate Rule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs or savings are expected to be very minimal from promulgation of this revision. There may be increased or decreased utility costs to state or local governments as electrical ratepayers, as a result of this rule, but only when an affected facility starts to operate in one of the added operating circumstances, such as repowering, combusting petroleum coke, losing certification because a new project was not completed, or reclassification from regulated to nonregulated and vice versa. There are six municipalities in Louisiana that own affected electrical generating units (EGUs). The department anticipates that very few units will change their modes of operation and that the effects of those few units that do may cancel out each other. There are so many variables and unknowns that no impact can be estimated, but the department expects the overall impact to be minimal.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Impact on revenue collections will be minimal to state or local governmental units that own affected units. These governmental units may pass on the costs or savings to their electrical ratepayers.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Affected regulated facilities that have the ability and are permitted to combust petroleum coke will get some additional NO<sub>x</sub> allowances due to the increase in the fuel adjustment factor in the methodology, tending to increase their income by increasing the number of NO<sub>x</sub> allowances allocated by the department. This amount may be significant. Seldom are these affected facilities singly owned, and this increase of allowances will cause a decrease to other facilities, some owned by the same company with the petroleum coke combustion.

Affected repowered facilities will tend to receive additional allowances, thus increasing their income. This amount may be significant. The estimate of the amount cannot be made because it will depend upon the repowered unit's certified heat output, which is not known but will be certified by the Louisiana Public Service Commission. Once again, seldom are these affected facilities singly owned, and this increase of allowances will cause a decrease to other facilities, some owned by the same company with the repowered unit.

Affected facilities that are reclassified from regulated to nonregulated, and vice versa, may receive more, or less, NO<sub>x</sub> allowances than before. The amount may be significant. Typically, nonregulated units receive only sufficient NO<sub>x</sub> allowances to operate, where regulated units receive less than needed. However, regulated facilities have the ability to put on control equipment and receive an excess of allowances.

Affected certified units that are not built would no longer receive allocations. Allocations will cease when the department is informed that a previously-certified unit will not be constructed.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be little or no effect on competition or employment.

Herman Robinson, CPM  
Executive Counsel  
0803#049

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Incorporation by Reference—2007  
(LAC 33:I.3931; V.3099; IX.2301, 4901,  
and 4903; and XV.1517)(MM007ft)

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 Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #MM007ft).

This proposed rule is identical to federal regulations found in 10 CFR Part 71, Appendix A, January 1, 2007; 40 CFR 117.3, Part 136, Part 266, Appendices I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), Part 401, Parts 405-415, and Parts 417-471, July 1, 2007; and 72 FR 40245-40250, July 24, 2007, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2007; administrative reporting exemptions for certain air releases of NO<sub>x</sub> in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2007; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2007; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-415, and 417-471, July 1, 2007; radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2007; and amendments to the Concentrated Animal Feeding Operations (CAFO) Point Source Category Regulations (40 CFR Part 412) at 72 FR 40245-40250, July 24, 2007. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this rule are to mirror the federal

regulations in order to maintain equivalency. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part I. Office of the Secretary**

#### **Subpart 2. Notification**

### **Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

#### **Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges**

##### **§3931. Reportable Quantity List for Pollutants**

###### **A. Incorporation by Reference of Federal Regulations**

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2007, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2007, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Notification Requirements. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(e), July 1, 2007—Notification Requirements; and

b. 40 CFR 355.40(a)(2)(vii), July 1, 2007—Emergency Release Notification.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:

#### **Part V. Hazardous Waste and Hazardous Materials**

##### **Subpart 1. Department of Environmental Quality—Hazardous Waste**

### **Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

#### **§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L**

##### **Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals**

A. 40 CFR 266, Appendix I, July 1, 2007, is hereby incorporated by reference.

##### **Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine**

A. 40 CFR 266, Appendix II, July 1, 2007, is hereby incorporated by reference.

##### **Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride**

A. 40 CFR 266, Appendix III, July 1, 2007, is hereby incorporated by reference.

##### **Appendix D. Reference Air Concentrations**

A. 40 CFR 266, Appendix IV, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099, Appendix E, respectively.

##### **Appendix E. Risk-Specific Doses (10<sup>-5</sup>)**

A. 40 CFR 266, Appendix V, July 1, 2007, is hereby incorporated by reference.

##### **Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]**

A. 40 CFR 266, Appendix VI, July 1, 2007, is hereby incorporated by reference.

##### **Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues**

A. 40 CFR 266, Appendix VII, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299, Appendix, Table 2, respectively.

##### **Appendix H. Organic Compounds for Which Residues Must Be Analyzed**

A. 40 CFR 266, Appendix VIII, July 1, 2007, is hereby incorporated by reference.

##### **Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, Appendix IX, July 1, 2007, is hereby incorporated by reference, except as follows.

A.1. – B. ...

##### **Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, 2007, is hereby incorporated by reference.

##### **Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, Appendix XII, July 1, 2007, is hereby incorporated by reference, except that the footnote should be deleted.

##### **Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, Appendix XIII, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007), LR 34:

## Part IX. Water Quality

### Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

#### Chapter 23. Definitions and General LPDES Program Requirements

##### §2301. General Conditions

A. – E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2007 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 33:2365 (November 2007), LR 34:

#### Chapter 49. Incorporation by Reference

##### §4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2007, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:

##### §4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2007, are hereby incorporated by reference.

B. Amendments as promulgated on July 24, 2007, in the *Federal Register*, 72 FR 40245-40250, to 40 CFR Part 412, Concentrated Animal Feeding Operations (CAFO) Point Source Category, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752

(April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:

## Part XV. Radiation Protection

### Chapter 15. Transportation of Radioactive Material §1517. Incorporation by Reference

A. 10 CFR Part 71, Appendix A, January 1, 2007, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2008, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM007ft. Such comments must be received no later than April 24, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@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 MM007ft. 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).

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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0803#050

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Racing Commission**

Timing of Entering Next Claiming Race (LAC 35:XI.9905)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9905, "Timing of Entering Next Claiming Race," to be consistent with claiming eligibility prices with the majority of the racing jurisdictions in the nation.

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

**Title 35**

**HORSE RACING**

**Part XI. Claiming Rules and Engagements**

**Chapter 99. Claiming Rule**

**§9905. Timing of Entering Next Claiming Race**

A. Except as otherwise provided herein, a claimed horse shall not enter in optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004), amended by the Office of the Governor, Division of Administration, Racing Commission LR 34:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through April 30, 2008, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Timing of Entering Next Claiming Race**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication. Funding and positions were provided in the 2007 Regular Session for these additional responsibilities.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on state revenue collections is anticipated to be positive. Any increase is indeterminable but not anticipated to be significant.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Passage of this rule could result in economic benefits to racing associations if wagering activity increases due to additional bettor confidence in horseracing. Any increase in benefits accruing to these associations is indeterminable but not anticipated to be significant.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Passage of this rule should not affect employment. However, it should place Louisiana tracks in a more favorable competitive environment with other tracks around the country.

Charles A. Gardiner III  
Executive Director  
0803#040

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Practical Nurse Examiners**

Approved Fees  
(LAC 46:XLVII.1715)

Editor's Note: This Notice is being reprinted to correct a typographical error. The original Notice may be viewed in its entirety in the February 20, 2008 edition of the *Louisiana Register* on pages 316-317.

The Board of Practical Nurse Examiners, in accordance with R.S. 37:961-979 and with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 46:XLVII.1715. Approved Fees. The proposed change will increase certain fees collected by the board and is needed to allow the board to continue to operate. Fees were last increased in 1999.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 1. Practical Nurses**

**Chapter 17. Licensure**

**§1715. Approved Fees**

**A. Fees**

- |   |       |
|---|-------|
| 1. License by examination   | \$100 |
| 2. License by endorsement   | \$ 50 |
| 3. Duplicate license  | \$ 30 |
| 4. Renewal of license   | \$ 50 |
| 5. Reinstatement of license which has been suspended, revoked or which has lapsed by nonrenewal | \$150 |
| 6. Duplicate renewal  | \$ 20 |
| 7. Delinquency fee in addition to renewal fee for nursing license (per year delinquent)         | \$ 70 |

- 8. Survey fee \$500
- 9. Renewal of certificate of accreditation \$200
- 10. Evaluation of credits of applicants for admission to approved program \$ 50
- 11. Evaluation of credits of out-of-state applicants for Louisiana practical nurse license \$ 50
- 12. Verification of Louisiana license to out-of-state board \$ 30
- 13. Certification of good-stand license \$ 5

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:

**Family Impact Statement**

The proposed amendments should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 3:30 p.m., March 10, 2008, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Approved Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation cost for this rule change totals \$120 in FY 07-08. This cost is related to the publication of the notice of intent and the final rule in the Louisiana Register.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will increase board revenue by approximately \$500,000-\$550,000 in FY 08-09 and each year thereafter. It will allow the Board to eliminate deficits in the operating budget that have existed for the last three years.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will increase certain licensure fees for practical nurses, for applicants for licensure by examination, and for certain practical nursing program fees as follows: examination fee by \$15 and will affect approximately 1,000 examination applicants per year; duplicate license fee by \$10 and affect about 200 practical nurses per year; license renewal

fee by \$20 and will affect approximately 21,000 renewal applicants per year; reinstatement of license fee by \$50 and will affect about 500 practical nurses per year; duplicate renewal fee by \$10 and affect about 700 practical nurses per year; delinquency fee for late renewal of license by \$20 and affect about 500 practical nurses per year; survey of program fee by \$250 and affect about 5 practical nursing programs per year; renewal of accreditation certificate by \$100 and will affect all 50 programs of practical nursing per year; the evaluation of credits of applicants into programs of practical nursing by \$25 and will affect about 2,000 applicants per year; verification of license to out-of-state boards of nursing by \$15 and will affect about 500 practical nurses per year.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN  
Executive Director  
0803#014

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Student/Shelters and Faculty Veterinarian  
(LAC 46:LXXXV.714)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.714 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1569. This text is being amended to establish the requirements for a qualified student at LSU-SVM to perform limited duties in a support capacity, at approved shelters on shelter animals only, under the direct supervision of faculty veterinarians licensed with the board. It is the primary purpose of this emergency action to identify the limitations of the student's duties and restrict the student from entering the realm of veterinary medical practice for which a license is required by law after the successful completion of competency requirements. It also holds the supervising faculty veterinarians licensed with the board accountable for the students under their charge.

The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice  
§714. Student/Shelters and Faculty Veterinarian**

A. A person who is a regular student in an accredited veterinary school who is performing duties or actions assigned by his instructors as part of his curriculum under the direct supervision of a faculty veterinarian who is licensed by the board; however, the student's role shall be limited to assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery in the shelters pre-approved by the board on shelter animals only. For example, observation of procedures and services by the student and the performance of menial

support tasks to assist the licensed faculty veterinarian are legally permissible. However, the licensed faculty veterinarian must be the primary veterinarian, or surgeon of record, in all situations. To allow the student to perform beyond the support capacity as defined in this rule would, in effect, permit the student to enter into the realm of veterinary practice without first having to meet the requirements necessary to have a license as established by the Louisiana Veterinary Practice Act and the Louisiana Board of Veterinary Medicine rules.

B. Direct supervision is defined as "continuous, visual, and on-site supervision" which shall only be performed by a faculty veterinarian licensed by, and accountable to, the Louisiana Board of Veterinary Medicine as per its regulatory authority. Accordingly, the licensed faculty veterinarian and the program shall comply with all requirements established by the Veterinary Practice Act and the board's rules regarding the practice of veterinary medicine including, but not limited to, such practice standards as a proper surgical facility, record keeping, aftercare, prescriptions, drug/device maintenance, etc. The faculty veterinarian as a licensed veterinarian shall be ultimately responsible, and accountable to the board, for the duties, actions, or work performed by the student; however, at no time shall the student's role extend beyond assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery in the shelters pre-approved by the board on shelter animals only.

C. The tasks assigned to a student is at the discretion of the supervising faculty veterinarian licensed by the board who shall be ultimately responsible and held accountable by the board for the duties, actions, or work performed by the student, however, at no time shall the student's role extend beyond assisting the licensed faculty veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery. In addition, the tasks assigned to the student shall encompass the care, treatment, and/or surgery of one shelter animal at a time at a shelter pre-approved by the board. Again, the licensed faculty veterinarian must be the primary veterinarian, or surgeon of record, in each individual situation.

D. Prior to commencement of a student's participation in a program, the supervising faculty veterinarian licensed by the board must first notify the board of such on board approved forms.

E. A student shall not be permitted to perform supervision of any nature, as defined in Rules 700 and 702, of the tasks or procedures performed by other personnel of the shelter at issue.

F. The duties, actions or work performed by a student shall not be considered a component of, nor applied to, the requirements regarding the preceptorship program established by the board. The period of time necessary to satisfactorily complete a preceptorship program shall not run concurrently with the period of time a student performs or works as such.

G. A student extern who is working during a school vacation for a licensed veterinarian shall be under continuous, visual, and on site supervision of a veterinarian licensed by the board. The supervising veterinarian shall be ultimately responsible and held accountable by the board for the duties, actions, or work performed by such person;

however, at no time shall the student's role extend beyond observing the supervising veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery. The student extern shall not perform supervision of any nature, as defined in Rules 700 and 702, of the tasks or procedures performed by other personnel of the facility at issue. Furthermore, the duties, actions or work performed by the student extern shall not be considered a component of, nor applied to, the requirements regarding the preceptorship program, nor shall it run concurrently with, or be any part of the board's preceptorship program requirements

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 29:1479 (August 2003), amended LR 34:

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on April 17, 2008. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, April 24, 2008, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish  
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Student/Shelters and  
Faculty Veterinarian**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$200 in FY 2008). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

**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 as no increase in fees will result from the rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The proposed rule establishes the requirements for a qualified student (approximately a maximum of 150 3rd and 4th year) at LSU-SVM to perform limited duties in a support capacity, at approved shelters (approximately 7 to 8) on shelter animals only, under the direct supervision of faculty veterinarians licensed with the Board. It is the primary purpose of this emergency action to identify the limitations of the student's duties and restrict the student from entering the realm of veterinary medical practice for which a license is required by law after the successful completion of competency requirements. It also holds the supervising faculty veterinarians licensed with the Board accountable for the students under their charge.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

No impact on competition and employment is anticipated as a result of the proposed rule.

Wendy D. Parrish  
Administrative Director  
0803#024

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Licensed Professional Counselors Board of Examiners**

General Provisions and Code of Conduct  
(LAC 46:LX.Chapters 1-21)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Licensed Professional Counselors Board of Examiners hereby proposes to amend its existing rules and regulations (LAC 46:LX.Chapters 1-21) relative to the composition of its Marriage and Family Therapy Advisory Committee, the Code of Ethics for Licensed Professional Counselors, the definitions of "Graduate Degree" and "Internet Counseling", requirements for licensure, supervision requirements for counselor interns, continuing education requirements, maintenance of records, exemptions from licensure, and the Code of Conduct. These revisions are necessary to clarify existing Rules.

Specifically, the Licensed Professional Counselors Board of Examiners proposes to amend Sections 103, 313, 315, 503, 703, 705, 803, 901, 1101, 1505, 1703, 2103, 2105, 2107, 2109, 2111, 2113, 2115, and 2117 of its Rules, relative to these revisions.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LX. Licensed Professional Counselors Board of  
Examiners**

**Subpart 1. Licensed Professional Counselors**

**Chapter 1. General Provisions**

**§103. Description of Organization**

A. ...

1. The licensed professional counselors board shall establish a Marriage and Family Therapy Advisory Committee, which shall consist of the three board members appointed by the governor from a list of names submitted by the executive board of the Louisiana Association for Marriage and Family Therapy.

A.2. - 3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:544 (July 1989), LR 22:101 (February 1996), LR 29:128 (February 2003), LR 29:2782, amended (December 2003), LR 34:

**Chapter 3. Board Meetings, Procedures, Records,  
Powers and Duties**

**§313. Code of Ethics**

A. The board has adopted the Code of Ethics of the American Counseling Association for Licensed Professional

Counselors as specified in R.S 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board. Disciplinary action will be based upon the Code of Conduct adopted by the board and in effect at the time the violation occurred. It is the duty of counselor interns and Licensed Professional Counselors to stay up to date in their knowledge of the Code of Conduct.

B. Applicable ethics requirements for Licensed Marriage and Family Therapists and MFT Interns are addressed at Subpart 2, Chapter 29, §2909 and Chapter 47 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:101 (February 1996), LR 29:130 (February 2003), LR 34:

**§315. Records of Proceedings**

A. The board shall keep a record of its proceedings and documents pertaining to interns, licensees, and approved supervisors. The proceedings and a register of interns, licensees, and approved supervisors shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003), LR 34:

**Chapter 5. License and Practice of Counseling**

**§503. Definitions for Licensed Professional Counselors**

A. For purposes of this rule, the following definitions will apply.

\* \* \*

*Practice of Mental Health Counseling/Psychotherapy*—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but are not limited to:

a. - e.iii. ...

f. *Graduate Degree*—the substance of which is professional mental health counseling that shall conform to one of the criteria below:

i. a CACREP accredited program or its equivalent as determined by the board;

ii. a counseling program incorporating the word "counseling" or "counselor" in its title;

iii. a program incorporating a counseling-related term in its title (e.g., "marriage and family therapy"); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. The requisite graduate degree may not consist of a degree in any disciplines otherwise licensed by the state of Louisiana including, but not limited to, psychology, clinical psychology, or social work, with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. - j. ...

k. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents shall be licensed in Louisiana and shall adhere to all applicable state laws relative to the practice of mental health counseling. See R.S. 37:1111, which prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a valid license issued by the Louisiana LPC Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 34:

## **Chapter 7. Requirements for Licensure of Licensed Professional Counselors**

### **§703. Licensed Professional Counselors Licensing Requirements**

A. The board shall issue a license to each Licensed Professional Counselor applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by RS 37:1106 and who furnishes satisfactory evidence to the board that he/she:

1. is at least 21 years of age;
2. is of good moral character;
3. is not in violation of any of the provisions of R.S. 37:1101-1122 and the rules and regulations adopted herein;

4. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor; with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved experience within the aforementioned time limits;

5. has declared special competencies and demonstrated professional competence therein by passing the National Counselor Examination (NCE) or at the discretion of the board, an examination comparable to the NCE;

6. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's degree and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health counseling practicum and supervised internship in mental health counseling (as defined

by Rules adopted by the board listed under Chapter 5, Definitions, §503), which shall not be interpreted to exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselor (LPC) Board:

- a. the following eight areas are required to have at least one semester course:

- i. counseling/psychotherapy theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling/psychotherapy;
- v. group dynamics, processes, and counseling/psychotherapy;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii. ethics;

7. has provided to the board a declaration of practices and procedures, with the content being subject to board review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), LR 22:102 (February 1996), LR 24:1294 (July 1998), LR 24:2124 (November 1998), LR 29:131 (February 2003), LR 34:

### **§705. Supervised Experience for Counselor Interns**

A. - A.1. ...

2. Pursuant to R.S. 37:1107(A), an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than the 2,000 hours of board-approved supervised experience within the aforementioned time limits.

A.2.a.i - ii. ...

- b. The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Subclause (a). Supervision may not take place via mail, email or telephone. Mail, email or telephone contacts with the supervisor shall be counted under Subclause (b) (i.e., consultation).

A.2.c - c.viii. ...

3. Acceptable modes for supervision of direct clinical contact are the following.

3.a. - b. ...

4. The counselor intern shall have a minimum of 100 hours of supervision by a board approved supervisor or supervisors, as defined in Chapter 5.

4.a. - b. ...

c. In the event that there is a change in supervisors during the duration of the counselor intern's supervised experience, the Documentation of Experience Form shall be submitted to the board within 30 days of the requested change. Parts 2 and 3 of the Registration of Supervision packet must be submitted with the new supervisor and supervisory plan information.

A.5. - B.3. ...

#### C. Registration of Supervised Experience

1. The board must approve all proposed supervision arrangements prior to the starting date of the supervised experience. The prospective counselor intern will:

a. initiate the registration of supervision process, providing the board with all the appropriate information including but not limited to academic requirements, supervision, and proposed supervision site;

b. submit along with the written proposal the appropriate fee determined by the board;

c. a counselor intern may be employed in a counseling setting for no more than 60 days prior to the approval of registration of supervision by the board. During these transitions it is expected that a licensed mental health professional will provide supervision to the counselor intern for a maximum of 60 days;

d. supervision hours do not begin accruing until after the application for supervision has been approved by the Licensed Professional Counselors Board. Counselor interns shall not provide counseling services unless under supervision.

2. Supervised experience rendered by the counselor intern in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A).

3. Following the board's review, the counselor intern will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

#### D. Responsibility of Counselor Intern under Supervision

1. During the period of supervised counseling/psychotherapy experience, the proper identification title is Counselor Intern. Counselor Interns shall not identify themselves as LPC Interns.

2. Each counselor intern must provide his/her clients with a disclosure statement (as outlined in the Appendix of the LPC Code of Conduct) that includes:

a. his/her training status; and

b. the name of his/her supervisor for licensure purposes.

3. Counselor interns must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101-1122).

4. Counselor interns may not initiate a private practice during their period of supervised counseling/psychotherapy experience. Counselor interns employed within their supervisors' private practice setting, or in a similar outpatient setting, cannot, under any circumstances bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completion of the required number of hours within a minimum of two years of supervised

counseling/psychotherapy experience, the counselor intern shall submit all license application forms, along with the appropriate fee, to the board. A counselor intern must continue under supervision until notification from the board that licensure has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:465 (May 1998), LR 22:102 (February 1996), LR 24:1294 (July 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:132 (February 2003), amended LR 33:2655 (December 2007), LR 34:

### **Chapter 8. Renewal of Licensed Professional Counselor Licenses**

#### **§803. Continuing Education Requirements for Licensed Professional Counselors/Board Approved Supervisors**

##### A. General Guidelines

1. An LPC licensee must accrue 40 clock hours of continuing education by every two year renewal period. Three hours must be in the area of ethics.

2. - 6. ...

##### B. Approved Continuing Education for Licensed Professional Counselors

1. ...

2. An LPC may obtain the 40 CEH's through one or more of the options listed.

a. ...

b. Continuing Education Not Preapproved. For those organizations, groups or individuals that do not carry provider status by one of the associations listed in Clause 2.a., the continuing education hours will be subject to approval by the Licensed Professional Counselors Board of Examiners at the time of renewal. The board will not preapprove any type of continuing education. The continuing education must be in one of the 12 approved content areas listed in §803.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above in mental health counseling, in another mental health profession, or in another profession who demonstrates expertise or competence in the presentation of information, knowledge, and skills relevant to mental health counseling.

c. ...

d. Home Study. (10 hours maximum per renewal period). The LCA journal, video presentations and approved teleconferences are all approved home study options. Each option must carry a provider number from either NBCC, LCA or other board-approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, LCA or certificates from other professional mental health organizations that will be reviewed by the board.

e. Presentations. (10 hours maximum per renewal period). Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph B.2.b above. The presentation must be to the professional community; not to the lay public or a classroom presentation. The presentation must also be in one of the 12

approved content areas listed in §803.C. Verification of your presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:271 (March 1992), amended LR 26:494 (March 2000), LR 29:135 (February 2003), LR 34:

## **Chapter 9. Fees**

### **§901. General**

A. - A.9. ...

B. Late fees will be incurred the day after a licensee's designated renewal deadline (no grace period). No part of any fee shall be refundable under any conditions. All application fees for registration of supervision and licensure must be paid to the board by certified check or money order. All other fees may be paid by personal check.

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:545 (July 1989), LR 18:51 (January 1992), LR 24:448 (March 1998), LR 29:136 (February 2003), LR 34:

## **Chapter 11. Reciprocity in LPC Licensing**

### **§1101. States, Territories, and Commonwealth**

A. ...

B. The board will accept all applicants listed in the National Credentialing Registry. Applicants must complete the necessary forms, other documentation deemed necessary, and pay the fees as prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:103 (February 1996), LR 29:137 (February 2003), LR 34:

## **Chapter 15. Privileged Communication for Licensed Professional Counselors**

### **§1505. Client Records**

A. The state of Louisiana requires client records be maintained a minimum of six years according to R.S.40:1299.41

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners LR 34:

## **Chapter 17. Exclusions for Licensed Professional Counselors**

### **§1703. Exemptions**

A. ...

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S.37:1107 or who holds a valid license and certificate issued under the authority of the laws of another state.

1. During a time of national disaster a licensed, certified or registered mental health counselor in another jurisdiction may serve in the state for up to 60 days.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:85 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:545 (July 1989), LR 22:103 (February 1996), LR 29:142 (February 2003), LR 34:

## **Chapter 21. Code of Conduct**

### **§2103. The Counseling Relationship**

A. Counselors encourage client growth and development in ways that foster the interest and welfare of clients and promote formation of healthy relationships. Counselors actively attempt to understand the diverse cultural backgrounds of the clients they serve. Counselors also explore their own cultural identities and how these affect their values and beliefs about the counseling process. Counselors are encouraged to contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono publico).

#### **1. Welfare of Those Served by Counselors**

a. **Primary Responsibility.** The primary responsibility of counselors is to respect the dignity and to promote the welfare of clients.

b. **Records.** Counselors maintain records necessary for rendering professional services to their clients and as required by laws (see Chapter 15, §1505.A.), regulations, or agency or institution procedures. Counselors include sufficient and timely documentation in their client records to facilitate the delivery and continuity of needed services. Counselors take reasonable steps to ensure that documentation in records accurately reflects client progress and services provided. If errors are made in client records, counselors take steps to properly note the correction of such errors according to agency or institutional policies.

c. **Counseling Plans.** Counselors and their clients work jointly in devising integrated counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients regularly review counseling plans to ensure their continued viability and effectiveness, respecting the freedom of choice of clients.

d. **Support Network Involvement.** Counselors recognize that support networks hold various meanings in the lives of clients and consider enlisting the support, understanding, and involvement of others (e.g., religious/spiritual/community leaders, family members, friends) as positive resources, when appropriate, with client consent.

e. **Employment Needs.** Counselors work with their clients considering employment in jobs that are consistent with the overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs of clients. When appropriate, counselors appropriately trained in career development will assist in the placement of clients in

positions that are consistent with the interest, culture, and the welfare of clients, employers, and/or the public.

## 2. Informed Consent in the Counseling Relationship

a. **Informed Consent.** Clients have the freedom to choose whether to enter into or remain in a counseling relationship and need adequate information about the counseling process, and the counselor. Counselors have an obligation to review in writing and verbally with clients the rights and responsibilities of both the counselor and the client. Informed consent is an ongoing part of the counseling process, and counselors appropriately document discussions of informed consent throughout the counseling relationship.

b. **Types of Information Needed.** Counselors explicitly explain to clients the nature of all services provided. They inform clients about issues such as, but not limited to, the following: the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services; the counselor's qualifications, credentials, and relevant experience; continuation of services upon the incapacitation or death of a counselor; and other pertinent information. Counselors take steps to ensure that clients understand the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients have the right to confidentiality and to be provided with an explanation of its limitations (including how supervisors, and/or treatment team professionals are involved); to obtain clear information about their records; to participate in the ongoing counseling plans; and to refuse any services or modality change and to be advised of the consequences of such refusal.

c. **Development and Cultural Sensitivity.** Counselors communicate information in ways that are both developmentally and culturally appropriate. Counselors use clear and understandable language when discussing issues related to informed consent. When clients have difficulty understanding the language used by counselors, they provide necessary services (e.g., arranging for a qualified interpreter or translator) to ensure comprehension by clients. In collaboration with clients, counselors consider cultural implications of informed consent procedures and, where possible, counselors adjust their practices accordingly.

d. **Inability to Give Consent.** When counseling minors or persons unable to give voluntary consent, counselors seek the assent of clients to services, and include them in decision making as appropriate. Counselors recognize the need to balance the ethical rights of clients to make choices, their capacity to give consent or assent to receive services, and parental or familial legal rights and responsibilities to protect these clients and make decisions on their behalf.

3. **Clients Served by Others.** When counselors learn that their clients are in a professional relationship with another mental health professional, they request written release of information that the clients sign in order to communicate with other professionals and strive to establish positive and collaborative professional relationships.

## 4. Avoiding Harm and Imposing Values

a. **Avoiding Harm.** Counselors act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm.

b. **Personal Values.** Counselors are aware of their own values, attitudes, beliefs, and behaviors and avoid

imposing values that are inconsistent with counseling goals. Counselors respect the diversity of clients, trainees, and research participants.

## 5. Roles and Relationships with Clients

a. **Current Clients.** Sexual or romantic counselor-client interaction or relationships with current clients, their romantic partners, or their family members are prohibited.

b. **Former Clients.** Sexual or romantic-client interactions or relationships with former clients, their romantic partners, or their family members are prohibited for a period of 5 years following the last professional contact. Counselors, before engaging in sexual or romantic interactions or relationships with clients their romantic partners, or client family members after 5 years following the last professional contact, demonstrate forethought and document (in written form) whether the interactions or relationships can be viewed as exploitive in some way and/or whether there is still potential to harm the former client; in cases of potential exploitation and/or harm, the counselor avoids entering such an interaction or relationship.

c. **Nonprofessional Interactions or Relationships (Other Than Sexual or Romantic Interactions or Relationships).** Counselor-client nonprofessional relationships with clients, former clients, their romantic partners or their family members should be avoided, except when the interaction is potentially beneficial to the client.

d. **Potentially Beneficial Interactions.** When a counselor-client nonprofessional interaction with a client or former client may be potentially beneficial to the client or former client, the counselor must document in case records, prior to the interaction (when feasible), the rationale for such an interaction, the potential benefit, and anticipated consequences for the client or former client and other individuals significantly involved with the client or former client. Such interactions should be initiated with appropriate client consent. Where unintentional harm occurs to the client or former client, or to an individual significantly involved with the client or former client, due to the non professional interaction, the counselor must show evidence of an attempt to remedy such harm. Examples of potentially beneficial interactions include, but are not limited to, attending a formal ceremony (e.g., a wedding/commitment ceremony or graduation); purchasing a service or product provided by a client or former client (excepting unrestricted bartering); hospital visits to an ill family member, mutual membership in a professional association, organization, or community.

e. **Role Changes in the Professional Relationship.** When a counselor changes a role from the original or most recent contracted relationship, he or she obtains informed consent from the client and explains the right of the client to refuse services related to the change. Examples of role changes include:

i. changing from individual to relationship or family counseling, or vice versa;

ii. changing from a nonforensic evaluative role to a therapeutic role, or vice versa;

iii. changing from a counselor to a researcher role (i.e., enlisting clients as research participants), or vice versa; and

iv. changing from a counselor to a mediator role, or vice versa;

v. Clients must be fully informed of any anticipated consequences (e.g., financial, legal, personal, or therapeutic) of counselor role changes.

#### 6. Roles and Relationships at Individual, Group, Institutional and Societal Levels

a. Advocacy. When appropriate, counselors advocate at individual, group, institutional, and societal levels to examine potential barriers and obstacles that inhibit access and/or the growth and development of clients.

b. Confidentiality and Advocacy. Counselors obtain client consent prior to engaging in advocacy efforts on behalf of an identifiable client to improve the provision of services and to work toward removal of systemic barriers or obstacles that inhibit client access, growth, and development.

#### 7. Multiple Clients

a. When a counselor agrees to provide counseling services to two or more persons who have a relationship, the counselor clarifies at the outset which person or persons are clients and the nature of the relationships the counselor will have with each involved person. If it becomes apparent that the counselor may be called upon to perform potentially conflicting roles, the counselor will clarify, adjust, or withdraw from roles appropriately.

#### 8. Group Work

a. Screening. Counselors screen prospective group counseling/therapy participants. To the extent possible, counselors select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

b. Protecting Clients. In a group setting, counselors take reasonable precautions to protect clients from physical, emotional, or psychological trauma.

#### 9. End-of-Life Care for Terminally Ill Clients

a. Quality of Care. Counselors strive to take measures that enable clients:

i. to obtain high quality end-of-life care for their physical, emotional, social, and spiritual needs;

ii. to exercise the highest degree of self-determination possible;

iii. to be given every opportunity possible to engage in informed decision making regarding their end-of-life care; and

iv. to receive complete and adequate assessment regarding their ability to make competent, rational decisions on their own behalf from a mental health professional who is experienced in end-of-life care practice.

b. Counselor Competence, Choice, and Referral. Recognizing the personal, moral, and competence issues related to end-of-life decisions, counselors may choose to work or not work with terminally ill clients who wish to explore their end-of-life options. Counselors provide appropriate referral information to ensure that clients receive the necessary help.

c. Confidentiality. Counselors who provide services to terminally ill individuals who are considering hastening their own deaths have the option of breaking or not breaking confidentiality, depending on applicable laws and the specific circumstances of the situation and after seeking consultation or supervision from appropriate professional and legal parties.

#### 10. Fees and Bartering

a. Accepting Fees From Agency Clients. Counselors refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

b. Establishing Fees. In establishing fees for professional counseling services, counselors consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, counselors assist clients in attempting to find comparable services of acceptable cost.

c. Nonpayment of Fees. If counselors intend to use collection agencies or take legal measures to collect fees from clients who do not pay for services as agreed upon, they first inform clients of intended actions and offer clients the opportunity to make payment.

d. Bartering. Counselors may barter only if the relationship is not exploitive or harmful and does not place the counselor in an unfair advantage, if the client requests it, and if such arrangements are an accepted practice among professionals in the community. Counselors consider the cultural implications of bartering and discuss relevant concerns with clients and document such agreements in a clear written contract.

e. Receiving Gifts. Counselors understand the challenges of accepting gifts from clients and recognize that in some cultures, small gifts are a token of respect and showing gratitude. When determining whether or not to accept a gift from clients, counselors take into account the therapeutic relationship, the monetary value of the gift, a client's motivation for giving the gift, and the counselor's motivation for wanting or declining the gift.

#### 11. Termination and Referral

a. Abandonment Prohibited. Counselors do not abandon or neglect clients in counseling. Counselors assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, illness, and following termination.

b. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they avoid entering or continuing counseling relationships. Counselors are knowledgeable about culturally and clinically appropriate referral resources and suggest these alternatives. If clients decline the suggested referrals, counselors should discontinue the relationship.

c. Appropriate Termination. Counselors terminate a counseling relationship when it becomes reasonably apparent that the client no longer needs assistance, is not likely to benefit, or is being harmed by continued counseling. Counselors may terminate counseling when in jeopardy of harm by the client, or another person with whom the client has a relationship, or when clients do not pay fees as agreed upon. Counselors provide pretermination counseling and recommend other service providers when necessary.

d. Appropriate Transfer of Services. When counselors transfer or refer clients to other practitioners, they

ensure that appropriate clinical and administrative processes are completed and open communication is maintained with both clients and practitioners.

## 12. Technology Applications

a. **Benefits and Limitations.** Counselors inform clients of the benefits and limitations of using information technology applications in the counseling process and in business/billing procedures. Such technologies include but are not limited to computer hardware and software, telephones, the World Wide Web, the Internet, online assessment instruments and other communication devices.

b. **Technology-Assisted Services.** When providing technology-assisted distance counseling services, counselors determine that clients are intellectually, emotionally, and physically capable of using the application and that the application is appropriate for the needs of clients.

c. **Inappropriate Services.** When technology-assisted distance counseling services are deemed inappropriate by the counselor or client, counselors consider delivering services face to face.

d. **Access.** Counselors provide reasonable access to computer applications when providing technology-assisted distance counseling services.

e. **Laws and Statutes.** Counselors ensure that the use of technology does not violate the laws of any local, state, national, or international entity and observe all relevant statutes.

f. **Assistance.** Counselors seek business, legal, and technical assistance when using technology applications, particularly when the use of such applications crosses state or national boundaries.

g. **Technology and Informed Consent.** As part of the process of establishing informed consent, counselors do the following:

i. address issues related to the difficulty of maintaining the confidentiality of electronically transmitted communications;

ii. inform clients of all colleagues, supervisors, and employees, such as Informational Technology (IT) administrators, who might have authorized or unauthorized access to electronic transmissions;

iii. urge clients to be aware of all authorized or unauthorized users including family members and fellow employees who have access to any technology clients may use in the counseling process;

iv. inform clients of pertinent legal rights and limitations governing the practice of a profession over state lines or international boundaries;

v. use encrypted Web sites and e-mail communications to help ensure confidentiality when possible;

vi. when the use of encryption is not possible, counselors notify clients of this fact and limit electronic transmissions to general communications that are not client specific;

vii. inform clients if and for how long archival storage of transaction records are maintained;

viii. discuss the possibility of technology failure and alternate methods of service delivery;

ix. inform clients of emergency procedures, such as calling 911 or a local crisis hotline, when the counselor is not available;

x. discuss time zone differences, local customs, and cultural or language differences that might impact service delivery;

xi. inform clients when technology-assisted distance counseling services are not covered by insurance.

h. **Sites on the World Wide Web.** Counselors maintaining sites on the World Wide Web (the Internet) do the following:

i. regularly check that electronic links are working and professionally appropriate;

ii. establish ways clients can contact the counselor in case of technology failure;

iii. provide electronic links to relevant state licensure and professional certification boards to protect consumer rights and facilitate addressing ethical concerns;

iv. establish a method for verifying client identity;

v. obtain the written consent of the legal guardian or other authorized legal representative prior to rendering services in the event the client is a minor child, an adult who is legally incompetent, or an adult incapable of giving informed consent;

vi. strive to provide a site that is accessible to persons with disabilities;

vii. strive to provide translation capabilities for clients who have a different primary language while also addressing the imperfect nature of such translations;

viii. assist clients in determining the validity and reliability of information found on the World Wide Web and other technology applications.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (1989), amended LR 24:438 (March 1998), LR 29:142 (February 2003), LR 34:

### **§2105. Confidentiality, Privileged Communication, and Privacy**

A. Counselors recognize that trust is a cornerstone of the counseling relationship. Counselors aspire to earn the trust of clients by creating an ongoing partnership, establishing and upholding appropriate boundaries, and maintaining confidentiality. Counselors communicate the parameters of confidentiality in a culturally competent manner.

#### 1. Respecting Client Rights

a. **Multicultural/Diversity Considerations.** Counselors maintain awareness and sensitivity regarding cultural meanings of confidentiality and privacy. Counselors respect differing views toward disclosure of information. Counselors hold ongoing discussions with clients as to how, when, and with whom information is to be shared.

b. **Respect for Privacy.** Counselors shall respect their clients' right to privacy and avoid legal and unwarranted disclosures of confidential information.

c. **Respect for Confidentiality.** Counselors do not share confidential information without client consent. The right to privacy may be waived by the client or their legally recognized representative.

d. **Explanation of Limitations.** At initiation and throughout the counseling process, counselors inform clients of the limitations of confidentiality and seek to identify foreseeable situations in which confidentiality must be breached.

## 2. Exceptions

a. **Danger and Legal Requirements.** The general requirement that counselors shall keep information confidential does not apply when disclosure is required because a patient has communicated a threat of physical violence, which is deemed to be significant in the clinical judgment of the counselor, against a clearly identified victim or victims, coupled with the apparent intent and ability to carry out such threat, or when legal requirements otherwise demand that confidential information be revealed. Counselor shall consult with other professionals when in doubt as to the validity of an exception.

b. **Contagious, Life-Threatening Diseases.** When clients disclose that they have a disease commonly known to be both communicable and life threatening, counselors may be justified in disclosing information to identifiable third parties, if they are known to be at demonstrable and high risk of contracting the disease. Prior to making a disclosure, counselors confirm that there is such a diagnosis and assess the intent of clients to inform the third parties about their disease or to engage in any behaviors that may be harmful to an identifiable third party.

c. **Court-Ordered Disclosure.** When subpoenaed to release confidential or privileged information without a client's permission, counselors obtain written, informed consent from the client or take steps to prohibit the disclosure or have it limited as narrowly as possible due to potential harm to the client or counseling relationship.

d. **Minimal Disclosure.** To the extent possible, clients are informed before confidential information is disclosed and are involved in the disclosure decision-making process. When circumstances require the disclosure of confidential information, only essential information is revealed.

## 3. Information Shared with Others

a. **Subordinates.** Counselors make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates, including employees, supervisees, students, clerical assistants, and volunteers.

b. **Treatment Teams.** When client treatment involves a continued review or participation by a treatment team, the client will be informed of the team's existence and composition, information being shared, and the purposes of sharing such information.

c. **Confidential Settings.** Counselors discuss confidential information only in settings in which they can reasonably ensure client privacy.

d. **Third-Party Payers.** Counselors disclose information to third-party payers only when clients have authorized such disclosure.

e. **Transmitting Confidential Information.** Counselors take precautions to ensure the confidentiality of information transmitted through the use of computers, electronic mail, facsimile machines, telephones, voicemail, answering machines, and other electronic or computer technology.

f. **Deceased Clients.** Counselors protect the confidentiality of deceased clients, consistent with legal requirements and agency or setting policies.

## 4. Groups and Families

a. **Group Work.** In group work, counselors clearly explain the importance and parameters of confidentiality for the specific group being entered.

b. **Couples and Family Counseling.** In couples and family counseling, counselors clearly define who is considered "the client" and discuss expectations and limitations of confidentiality. Counselors seek agreement and document in writing such agreement among all involved parties having capacity to give consent concerning each individual's right to confidentiality and any obligation to preserve the confidentiality of information known.

## 5. Clients Lacking Capacity to Give Informed Consent

a. **Responsibility to Clients.** When counseling minor clients or adult clients who lack the capacity to give voluntary, informed consent, counselors protect the confidentiality of information received in the counseling relationship as specified by federal and state laws, written policies, and applicable ethical standards.

b. **Responsibility to Parents and Legal Guardians.** Counselors inform parents and legal guardians about the role of counselors and the confidential nature of the counseling relationship. Counselors are sensitive to the cultural diversity of families and respect the inherent rights and responsibilities of parents/guardians over the welfare of their children/charges according to law. Counselors work to establish, as appropriate, collaborative relationships with parents/guardians to best serve clients.

c. **Release of Confidential Information.** When counseling minor clients or adult clients who lack the capacity to give voluntary consent to release confidential information, counselors seek permission from an appropriate third party to disclose information. In such instances, counselors inform clients consistent with their level of understanding and take culturally appropriate measures to safeguard client confidentiality.

## 6. Records

a. **Confidentiality of Records.** Counselors ensure that records are kept in a secure location and that only authorized persons have access to records.

b. **Permission to Record.** Counselors obtain permission from clients prior to recording sessions through electronic or other means.

c. **Permission to Observe.** Counselors obtain permission from clients prior to observing counseling sessions, reviewing session transcripts, or viewing recordings of sessions with supervisors, faculty, peers, or others within the training environment.

d. **Client Access.** Counselors provide reasonable access to records and copies of records when requested by competent clients. Counselors limit the access of clients to their records, or portions of their records, only when there is compelling evidence that such access would cause harm to the client. Counselors document the request of clients and the rationale for withholding some or all of the record in the files of clients. In situations involving multiple clients, counselors provide individual clients with only those parts of records that related directly to them and do not include confidential information related to any other client.



e. Assistance With Records. When clients request access to their records, counselors provide assistance and consultation in interpreting counseling records.

f. Disclosure or Transfer. Unless exceptions to confidentiality exist, counselors obtain written permission from clients to disclose or transfer records to legitimate third parties. Steps are taken to ensure that receivers of counseling records are sensitive to their confidential nature.

g. Storage and Disposal after Termination. Counselors store records following termination of services to ensure reasonable future access, maintain records in accordance with state and federal statutes governing records, and dispose of client records and other sensitive materials in a manner that protects client confidentiality. When records are of an artistic nature, counselors obtain client (or guardian) consent with regards to handling of such records or documents.

h. Reasonable Precautions. Counselors take reasonable precautions to protect client confidentiality in the event of the counselor's termination of practice, incapacity, or death.

#### 7. Research and Training

a. Institutional Approval. When institutional approval is required, counselors provide accurate information about their research proposals and obtain approval prior to conducting their research. They conduct research in accordance with the approved research protocol.

b. Adherence to Guidelines. Counselors are responsible for understanding and adhering to state, federal, agency, or institutional policies or applicable guidelines regarding confidentiality in their research practices.

c. Confidentiality of Information Obtained in Research. Violations of participant privacy and confidentiality are risks of participation in research involving human participants. Investigators maintain all research records in a secure manner. They explain to participants the risks of violations of privacy and confidentiality and disclose to participants any limits of confidentiality that reasonably can be expected. Regardless of the degree to which confidentiality will be maintained, investigators must disclose to participants any limits of confidentiality that reasonably can be expected.

d. Disclosure of Research Information. Counselors do not disclose confidential information that reasonably could lead to the identification of a research participant unless they have obtained the prior consent of the person. Use of data derived from counseling relationships for purposes of training, research, or publication is confined to content that is disguised to ensure the anonymity of the individuals involved.

e. Agreement for Identification. Identification of clients, or students, or supervisees in a presentation or publication is permissible only when they have reviewed the material and agreed to its presentation or publication.

#### 8. Consultation

a. Agreements. When acting as consultants, counselors seek agreements among all parties involved concerning each individual's rights to confidentiality, the obligation of each individual to preserve confidential information, and the limits of confidentiality of information shared by others.

b. Respect for Privacy. Information obtained in a consulting relationship is discussed for professional purposes only with persons directly involved with the case. Written and oral reports present only data germane to the purposes of the consultation, and every effort is made to protect client identity and to avoid undue invasion of privacy.

c. Disclosure of Confidential Information. When consulting with colleagues, counselors do not disclose confidential information that reasonably could lead to the identification of a client or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided. They disclose information only to the extent necessary to achieve the purposes of the consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:623 (August 1989), amended LR 24:440 (March 1998), LR 29:144 (February 2003), LR 34:

#### §2107. Professional Responsibility

A. Counselors aspire to open, honest, and accurate communication in dealing with the public and other professionals. They practice in a non-discriminatory manner within the boundaries of professional and personal competence and have a responsibility to abide by the Code of Conduct and Standards of Practice. Counselors actively participate in local, state, and national associations that foster the development and improvement of counseling. Counselors advocate to promote change at the individual, group, institutional, and societal levels that improves the quality of life for individuals and groups and remove potential barriers to the provision or access of appropriate services being offered. Counselors have a responsibility to the public to engage in counseling practices that are based on rigorous research methodologies. In addition, counselors engage in self-care activities to maintain and promote their emotional, physical, mental, and spiritual well-being to best meet their professional responsibilities.

##### 1. Knowledge of Standards

a. Counselors have a responsibility to read, understand, and follow the Code of Conduct and Standards of Practice and adhere to applicable laws and regulations.

##### 2. Professional Competence

a. Boundaries of Competence. Counselors practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population.

b. New Specialty Areas of Practice. Counselors practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors take steps to ensure the competence of their work and to protect others from possible harm.

c. Qualified for Employment. Counselors accept employment only for positions for which they are qualified

by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors hire for professional counseling positions only individuals who are qualified and competent for those positions.

d. Monitor Effectiveness. Counselors continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice take reasonable steps to seek peer supervision as needed to evaluate their efficacy as counselors.

e. Consultation on Ethical Obligations. Counselors take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

f. Continuing Education. Counselors recognize the need for continuing education to acquire and maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They take steps to maintain competence in the skills they use, are open to new procedures, and keep current with the diverse populations and specific populations with whom they work.

g. Impairment. Counselors are alert to the signs of impairment from their own physical, mental, or emotional problems and refrain from offering or providing professional services when such impairment is likely to harm a client or others. They seek assistance for problems that reach the level of professional impairment, and, if necessary, they limit, suspend, or terminate their professional responsibilities until such time it is determined that they may safely resume their work. Counselors assist colleagues or supervisors in recognizing their own professional impairment and provide consultation and assistance when warranted with colleagues or supervisors showing signs of impairment and intervene as appropriate to prevent imminent harm to clients.

h. Counselor Incapacitation or Termination of Practice. When counselors leave a practice, they follow a prepared plan for transfer of clients and files. Counselors prepare and disseminate to an identified colleague or "records custodian" a plan for the transfer of clients and files in the case of their incapacitation, death, or termination of practice (see §2105.A.6.h.).

### 3. Advertising and Soliciting Clients

a. Accurate Advertising. When advertising or otherwise representing their services to the public, counselors identify their credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent.

b. Testimonials. Counselors who use testimonials do not solicit them from current clients nor former clients nor any other persons who may be vulnerable to undue influence.

c. Statements by Others. Counselors make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

d. Recruiting through Employment. Counselors do not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

e. Products and Training Advertisements. Counselors who develop products related to their profession or conduct workshops or training events ensure that the advertisements concerning these products or events are

accurate and disclose adequate information for consumers to make informed choices.

f. Promoting to Those Served. Counselors do not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. However, counselor educators may adopt textbooks they have authored for instructional purposes.

### 4. Professional Qualifications

a. Accurate Representation. Counselors claim or imply only professional qualifications actually completed and correct any known misrepresentations of their qualifications by others. Counselors truthfully represent the qualifications of their professional colleagues. Counselors clearly distinguish between paid and volunteer work experience and accurately describe their continuing education and specialized training.

b. Credentials. Counselors claim only licenses or certifications that are current and in good standing.

c. Educational Degrees. Counselors clearly differentiate between earned and honorary degrees.

d. Implying Doctoral-Level Competence. Counselors clearly state their highest earned degree in counseling or closely related field. Counselors do not imply doctoral-level competence when only possessing a master's degree in counseling or a related field by referring to themselves as "Dr." in a counseling context when their doctorate is not in counseling or related field.

e. Program Accreditation Status. Counselors clearly state the accreditation status of their degree programs at the time the degree was earned.

f. Professional Membership. Counselors clearly differentiate between current, active memberships and former memberships in associations. Members of the American Counseling Association must clearly differentiate between professional membership, which implies the possession of at least a master's degree in counseling, and regular membership, which is open to individuals whose interests and activities are consistent with those of ACA but are not qualified for professional membership.

### 5. Nondiscrimination

a. Counselors do not condone or engage in discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. Counselors do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

### 6. Public Responsibility

a. Sexual Harassment. Counselors do not engage in or condone sexual harassment. Sexual harassment is defined as sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either:

i. is unwelcome, is offensive, or creates a hostile workplace or learning environment, and counselors know or are told this; or

ii. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context in which the behavior occurred. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

b. Reports to Third Parties. Counselors are accurate, honest, and objective in reporting their professional activities and judgments to appropriate third parties, including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

c. Media Presentations. When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, technology-based applications, printed articles, mailed material, or other media, they take reasonable precautions to ensure that:

i. the statements are based on appropriate professional counseling literature and practice;

ii. the statements are otherwise consistent with the Code of Conduct; and

iii. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

d. Exploitation of Others. Counselors do not exploit others in their professional relationships.

e. Scientific Bases for Treatment Modalities. Counselors use techniques/ procedures/modalities that are grounded in theory and/or have an empirical or scientific foundation. Counselors who do not must define the techniques/procedures as "unproven" or "developing" and explain the potential risks and ethical considerations of using such techniques/procedures and take steps to protect clients from possible harm.

## 7. Responsibility to Other Professionals

a. Personal Public Statements. When making personal statements in a public context, counselors clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:624 (August 1989), amended LR 24:441 (March 1998), LR 26:496 (March 2000), LR 29:145 (February 2003), LR 34:

### **§2109. Relationships with Other Professionals**

A. Professional counselors recognize that the quality of their interactions with colleagues can influence the quality of services provided to clients. They work to become knowledgeable about colleagues within and outside the field of counseling. Counselors develop positive working relationships and systems of communication with colleagues to enhance services to clients.

#### 1. Relationships with Colleagues, Employers, and Employees

a. Different Approaches. Counselors are respectful of approaches to counseling services that differ from their own. Counselors are respectful of traditions and practices of other professional groups with which they work.

b. Forming Relationships. Counselors work to develop and strengthen interdisciplinary relations with colleagues from other disciplines to best serve clients.

c. Interdisciplinary Teamwork. Counselors who are members of interdisciplinary teams delivering multifaceted services to clients keep the focus on how to best serve the clients. They participate in and contribute to decisions that affect the well-being of clients by drawing on the perspectives, values, and experiences of the counseling profession and those of colleagues from other disciplines.

d. Confidentiality. When counselors are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, they clarify role expectations and the parameters of confidentiality with their colleagues.

e. Establishing Professional and Ethical Obligations. Counselors who are members of interdisciplinary teams clarify professional and ethical obligations of the team as a whole and of its individual members. When a team decision raises ethical concerns, counselors first attempt to resolve the concern within the team. If they cannot reach resolution among team members, counselors pursue other avenues to address their concerns consistent with client well-being.

f. Personnel Selection and Assignment. Counselors select competent staff and assign responsibilities compatible with their skills and experiences.

g. Employer Policies. The acceptance of employment in an agency or institution implies that counselors are in agreement with its general policies and principles. Counselors strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

h. Negative Conditions. Counselors alert their employers of inappropriate policies and practices. They attempt to effect changes in such policies or procedures through constructive action within the organization. When such policies are potentially disruptive or damaging to clients or may limit the effectiveness of services provided and change cannot be effected, counselors take appropriate further action. Such action may include referral to appropriate certification, accreditation, or state licensure organizations, or voluntary termination of employment.

i. Protection From Punitive Action. Counselors take care not to harass or dismiss an employee who has acted in a responsible and ethical manner to expose inappropriate employer policies or practices.

#### 2. Consultation

a. Consultant Competency. Counselors take reasonable steps to ensure that they have the appropriate resources and competencies when providing consultation services. Counselors provide appropriate referral resources when requested or needed.

b. Understanding Consultees. When providing consultation, counselors attempt to develop with their consultees a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

c. Consultant Goals. The consulting relationship is one in which consultee adaptability and growth toward self-direction are consistently encouraged and cultivated.

d. Informed Consent in Consultation. When providing consultation, counselors have an obligation to review, in writing and verbally, the rights and responsibilities

of both counselors and consultees. Counselors use clear and understandable language to inform all parties involved about the purpose of the services to be provided, relevant costs, potential risks and benefits, and the limits of confidentiality. Working in conjunction with the consultee, counselors attempt to develop a clear definition of the problem, goals for change, and predicted consequences of interventions that are culturally responsive and appropriate to the needs of consultees.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:443 (March 1998), LR 26:146 (February 2003), LR 34:

### **§2111. Evaluation Assessment, and Interpretation**

**A. Evaluation, Assessment, and Interpretation.** Counselors use assessment instruments as one component of the counseling process, taking into account the client personal and cultural context. Counselors promote the well-being of individual clients or groups of clients by developing and using appropriate educational, psychological, and career assessment instruments.

#### **1. General**

**a. Assessment.** The primary purpose of educational, psychological, and career assessment is to provide measurements that are valid and reliable in either comparative or absolute terms. These include, but are not limited to, measurements of ability, personality, interest, intelligence, achievement, and performance. Counselors recognize the need to interpret the statements in this section as applying to both quantitative and qualitative assessments.

**b. Client Welfare.** Counselors do not misuse assessment results and interpretations, and they take reasonable steps to prevent others from misusing the information these techniques provide. They respect the client's right to know the results, the interpretations made, and the bases for counselors' conclusions and recommendations.

#### **2. Competence to Use and Interpret Assessment Instruments**

**a. Limits of Competence.** Counselors utilize only those testing and assessment services for which they have been trained and are competent. Counselors using technology-assisted test interpretations are trained in the construct being measured and the specific instrument being used prior to using its technology-based application. Counselors take reasonable measures to ensure the proper use of psychological and career assessment techniques by persons under their supervision.

**b. Appropriate Use.** Counselors are responsible for the appropriate application, scoring, interpretation, and use of assessment instruments relevant to the needs of the client, whether they score and interpret such assessments themselves or use technology or other services.

**c. Decisions Based on Results.** Counselors responsible for decisions involving individuals or policies that are based on assessment results have a thorough understanding of educational, psychological, and career measurement, including validation criteria, assessment research, and guidelines for assessment development and use.

#### **3. Informed Consent in Assessment**

**a. Explanation to Clients.** Prior to assessment, counselors explain the nature and purposes of assessment and the specific use of results by potential recipients. The explanation will be given in the language of the client (or other legally authorized person on behalf of the client), unless an explicit exception has been agreed upon in advance. Counselors consider the client's personal or cultural context, the level of the client's understanding of the results, and the impact of the results on the client.

**b. Recipients of Results.** Counselors consider the examinee's welfare, explicit understandings, and prior agreements in determining who receives the assessment results. Counselors include accurate and appropriate interpretations with any release of individual or group assessment results.

#### **4. Release of Data to Qualified Professional**

**a. Counselors release assessment data in which the client is identified only with the consent of the client or the client's legal representative. Such data are released only to persons recognized by counselors as qualified to interpret the data.**

#### **5. Diagnosis of Mental Disorders**

**a. Proper Diagnosis.** Counselors take special care to provide proper diagnosis of mental disorders. Assessment techniques (including personal interview) used to determine client care (e.g., locus of treatment, type of treatment, or recommended follow-up) are carefully selected and appropriately used.

**b. Cultural Sensitivity.** Counselors recognize that culture affects the manner in which clients' problems are defined. Clients' socioeconomic and cultural experiences are considered when diagnosing mental disorders.

**c. Historical and Social Prejudices in the Diagnosis of Pathology.** Counselors recognize historical and social prejudices in the misdiagnosis and pathologizing of certain individuals and groups and the role of mental health professionals in perpetuating these prejudices through diagnosis and treatment.

**d. Refraining from Diagnosis.** Counselors may refrain from making and/or reporting a diagnosis if they believe it would cause harm to the client or others.

#### **6. Instrument Selection**

**a. Appropriateness of Instruments.** Counselors carefully consider the validity, reliability, psychometric limitations, and appropriateness of instruments when selecting assessments.

**b. Referral Information.** If a client is referred to a third party for assessment, the counselor provides specific referral questions and sufficient objective data about the client to ensure that appropriate assessment instruments are utilized.

**c. Culturally Diverse Populations.** Counselors are cautious when selecting assessments for culturally diverse populations to avoid the use of instruments that lack appropriate psychometric properties for the client population.

#### **7. Conditions of Assessment Administration**

**a. Administration Conditions.** Counselors administer assessments under the same conditions that were

established in their standardization. When assessments are not administered under standard conditions, as may be necessary to accommodate clients with disabilities, or when unusual behavior or irregularities occur during the administration, those conditions are noted in interpretation, and the results may be designated as invalid or of questionable validity.

b. **Technological Administration.** Counselors ensure that administration programs function properly and provide clients with accurate results when technological or other electronic methods are used for assessment administration.

c. **Unsupervised Assessments.** Unless the assessment instrument is designed, intended, and validated for self-administration and/or scoring, counselors do not permit inadequately supervised use.

d. **Disclosure of Favorable Conditions.** Prior to administration of assessments, conditions that produce most favorable assessment results are made known to the examinee.

#### 8. Multicultural Issues/Diversity in Assessment

a. Counselors use with caution assessment techniques that were normed on populations other than that of the client. Counselors recognize the effects of age, color, culture, disability, ethnic group, gender, race, language preference, religion, spirituality, sexual orientation, and socioeconomic status on test administration and interpretation, and place test results in proper perspective with other relevant factors.

#### 9. Scoring and Interpretation of Assessments

a. **Reporting.** In reporting assessment results, counselors indicate reservations that exist regarding validity or reliability due to circumstances of the assessment or the inappropriateness of the norms for the person tested.

b. **Research Instruments.** Counselors exercise caution when interpreting the results of research instruments not having sufficient technical data to support respondent results. The specific purposes for the use of such instruments are stated explicitly to the examinee.

c. **Assessment Services.** Counselors who provide assessment scoring and interpretation services to support the assessment process confirm the validity of such interpretations. They accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service is considered a professional-to-professional consultation. The formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

#### 10. Assessment Security

a. Counselors maintain the integrity and security of tests and other assessment techniques consistent with legal and contractual obligations. Counselors do not appropriate, reproduce, or modify published assessments or parts thereof without acknowledgment and permission from the publisher.

#### 11. Obsolete Assessments and Outdated Results

a. Counselors do not use data or results from assessments that are obsolete or outdated for the current purpose. Counselors make every effort to prevent the misuse of obsolete measures and assessment data by others.

#### 12. Assessment Construction

a. Counselors use established scientific procedures, relevant standards, and current professional knowledge for

assessment design in the development, publication, and utilization of educational and psychological assessment techniques.

#### 13. Forensic Evaluation: Evaluation for Legal Proceedings

a. **Primary Obligations.** When providing forensic evaluations, the primary obligation of counselors is to produce objective findings that can be substantiated based on information and techniques appropriate to the evaluation, which may include examination of the individual and/or review of records. Counselors are entitled to form professional opinions based on their professional knowledge and expertise that can be supported by the data gathered in evaluations. Counselors will define the limits of their reports or testimony, especially when an examination of the individual has not been conducted.

b. **Consent for Evaluation.** Individuals being evaluated are informed in writing that the relationship is for the purposes of an evaluation and is not counseling in nature, and entities or individuals who will receive the evaluation report are identified. Written consent to be evaluated is obtained from those being evaluated unless a court orders evaluations to be conducted without the written consent of individuals being evaluated. When children or vulnerable adults are being evaluated, informed written consent is obtained from a parent or guardian.

c. **Client Evaluation Prohibited.** Counselors do not evaluate individuals for forensic purposes they currently counsel or individuals they have counseled in the past. Counselors do not accept as counseling clients individuals they are evaluating or individuals they have evaluated in the past for forensic purposes.

d. **Avoid Potentially Harmful Relationships.** Counselors who provide forensic evaluations avoid potentially harmful professional or personal relationships with family members, romantic partners, and close friends of individuals they are evaluating or have evaluated in the past.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospital, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:443 (March 1998), LR 29:147 (February 2003), LR 34:

#### **§2113. Supervision, Training and Teaching**

A. Counselors aspire to foster meaningful and respectful professional relationships and to maintain appropriate boundaries with supervisees and students. Counselors have theoretical and pedagogical foundations for their work and aim to be fair, accurate, and honest in their assessments of counselors-in-training.

##### 1. Counselor Supervision and Client Welfare

a. **Client Welfare.** A primary obligation of counseling supervisors is to monitor the services provided by other counselors or counselors-in-training. Counseling supervisors monitor client welfare and supervisee clinical performance and professional development. To fulfill these obligations, supervisors meet regularly with supervisees to review case notes, samples of clinical work, or live observations. Supervisees have a responsibility to understand and follow the Code of Conduct and Standards of Practice.

b. Counselor Credentials. Counseling supervisors work to ensure that clients are aware of the qualifications of the supervisees who render services to the clients.

c. Informed Consent and Client Rights. Supervisors make supervisees aware of client rights including the protection of client privacy and confidentiality in the counseling relationship. Supervisees provide clients with professional disclosure information and inform them of how the supervision process influences the limits of confidentiality. Supervisees make clients aware of who will have access to records of the counseling relationship and how these records will be used.

## 2. Counselor Supervision Competence

a. Supervisor Preparation. Prior to offering clinical supervision services, counselors are trained in supervision methods and techniques. Counselors who offer clinical supervision services regularly pursue continuing education activities including both counseling and supervision topics and skills.

b. Multicultural Issues/Diversity in Supervision. Counseling supervisors are aware of and address the role of multiculturalism/diversity in the supervisory relationship.

## 3. Supervisory Relationships

a. Relationship Boundaries with Supervisees. Counseling supervisors clearly define and maintain ethical professional, personal, and social relationships with their supervisees. Counseling supervisors avoid nonprofessional relationships with current supervisees. If supervisors must assume other professional roles (e.g., clinical and administrative supervisor, instructor) with supervisees, they work to minimize potential conflicts and explain to supervisees the expectations and responsibilities associated with each role. They do not engage in any form of nonprofessional interaction that may compromise the supervisory relationship.

b. Sexual Relationships. Sexual or romantic interactions or relationships with current supervisees are prohibited.

c. Sexual Harassment. Counseling supervisors do not condone or subject supervisees to sexual harassment.

d. Close Relatives and Friends. Counseling supervisors avoid accepting close relatives, romantic partners, or friends as supervisees.

e. Potentially Beneficial Relationships. Counseling supervisors are aware of the power differential in their relationships with supervisees. If they believe nonprofessional relationships with a supervisee may be potentially beneficial to the supervisee, they take precautions similar to those taken by counselors when working with clients. Examples of potentially beneficial interactions or relationships include attending a formal ceremony; hospital visits; providing support during a stressful event; or mutual membership in a professional association, organization, or community. Counseling supervisors engage in open discussions with supervisees when they consider entering into relationships with them outside of their roles as clinical and/or administrative supervisors. Before engaging in nonprofessional relationships, supervisors discuss with supervisees and document the rationale for such interactions, potential benefits or drawbacks, and anticipated consequences for the supervisee. Supervisors clarify the

specific nature and limitations of the additional role(s) they will have with the supervisee.

## 4. Supervisor Responsibilities

a. Informed Consent for Supervision. Supervisors are responsible for incorporating into their supervision the principles of informed consent and participation. Supervisors inform supervisees of the policies and procedures to which they are to adhere and the mechanisms for due process appeal of individual supervisory actions.

b. Emergencies and Absences. Supervisors establish and communicate to supervisees procedures for contacting them or, in their absence, alternative on-call supervisors to assist in handling crises.

c. Standards for Supervisees. Supervisors make their supervisees aware of professional and ethical standards and legal responsibilities. Supervisors of postdegree counselors encourage these counselors to adhere to professional standards of practice.

d. Termination of the Supervisory Relationship. Supervisors or supervisees have the right to terminate the supervisory relationship with adequate notice. Reasons for withdrawal are provided to the other party. When cultural, clinical, or professional issues are crucial to the viability of the supervisory relationship, both parties make efforts to resolve differences. When termination is warranted, supervisors make appropriate referrals to possible alternative supervisors.

## 5. Counseling Supervision Evaluation, Remediation, and Endorsement

a. Evaluation. Supervisors document and provide supervisees with ongoing performance appraisal and evaluation feedback and schedule periodic formal evaluative sessions throughout the supervisory relationship.

b. Limitations. Through ongoing evaluation and appraisal, supervisors are aware of the limitations of supervisees that might impede performance. Supervisors assist supervisees in securing remedial assistance when needed. They recommend dismissal from training programs, applied counseling settings, or state or voluntary professional credentialing processes when those supervisees are unable to provide competent professional services. Supervisors seek consultation and document their decisions to dismiss or refer supervisees for assistance. They ensure that supervisees are aware of options available to them to address such decisions.

c. Counseling for Supervisees. If supervisees request counseling, supervisors provide them with acceptable referrals. Counselors do not provide counseling services to their supervisees. Supervisors address interpersonal competencies in terms of the impact of these issues on clients, the supervisory relationship, and professional functioning.

d. Endorsement. Supervisors endorse supervisees for certification, licensure, employment, or completion of an academic or training program only when they believe supervisees are qualified for the endorsement. Regardless of qualifications, supervisors do not endorse supervisees whom they believe to be impaired in any way that would interfere with the performance of the duties associated with the endorsement.

## 6. Responsibilities of Counselor Educators

a. Counselor Educators. Counselor educators who are responsible for developing, implementing, and supervising educational programs are skilled as teachers and practitioners. They are knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, are skilled in applying that knowledge, and make students and supervisees aware of their responsibilities. Counselor educators conduct counselor education and training programs in an ethical manner and serve as role models for professional behavior.

b. Infusing Multicultural Issues/Diversity. Counselor Educators infuse material related to multiculturalism/diversity into all courses and workshops for the development of professional counselors.

c. Integration of Study and Practice. Counselor educators establish education and training programs that integrate academic study and supervised practice.

d. Teaching Ethics. Counselor educators make students and supervisees aware of the ethical responsibilities and standards of the profession and the ethical responsibilities of students to the profession. Counselor educators infuse ethical considerations throughout the curriculum.

e. Peer Relationships. Counselor educators make every effort to ensure that the rights of peers are not compromised when students or supervisees lead counseling groups or provide clinical supervision. Counselor educators take steps to ensure that students and supervisees understand they have the same ethical obligations as counselor educators, trainers, and supervisors.

f. Innovative Theories and Techniques. When counselor educators teach counseling techniques/procedures that are innovative, without an empirical foundation, or without a well-grounded theoretical foundation, they define the counseling techniques/procedures as "unproven" or "developing" and explain to students the potential risks and ethical considerations of using such techniques/procedures.

g. Field Placements. Counselor educators develop clear policies within their training programs regarding field placement and other clinical experiences. Counselor educators provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They confirm that site supervisors are qualified to provide supervision and inform site supervisors of their professional and ethical responsibilities in this role.

h. Professional Disclosure. Before initiating counseling services, counselors-in-training disclose their status as students and explain how this status affects the limits of confidentiality. Counselor educators ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Students and supervisees obtain client permission before they use any information concerning the counseling relationship in the training process.

## 7. Student Welfare

a. Orientation. Counselor educators recognize that orientation is a developmental process that continues throughout the educational and clinical training of students. Counseling faculty provide prospective students with information about the counselor education program's expectations:

i. the type and level of skill and knowledge acquisition required for successful completion of the training;

ii. program training goals, objectives, and mission, and subject matter to be covered;

iii. bases for evaluation;

iv. training components that encourage self-growth or self-disclosure as part of the training process;

v. the type of supervision settings and requirements of the sites for required clinical field experiences;

vi. student and supervisee evaluation and dismissal policies and procedures; and

vii. up-to-date employment prospects for graduates.

b. Self-Growth Experiences. Counselor education programs delineate requirements for self-disclosure or self-growth experiences in their admission and program materials. Counselor educators use professional judgment when designing training experiences they conduct that require student and supervisee self-growth or self-disclosure. Students and supervisees are made aware of the ramifications their self-disclosure may have when counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences explicitly delineate predetermined academic standards that are separate and do not depend on the student's level of self-disclosure. Counselor educators may require trainees to seek professional help to address any personal concerns that may be affecting their competency.

## 8. Student Responsibilities

a. Standards for Students. Counselors-in-training have a responsibility to understand and follow the ACA Code of Ethics and LPC Code of Conduct and adhere to applicable laws, regulatory policies, and rules and policies governing professional staff behavior at the agency or placement setting. Students have the same obligation to clients as those required of professional counselors.

b. Impairment. Counselors-in-training refrain from offering or providing counseling services when their physical, mental, or emotional problems are likely to harm a client or others. They are alert to the signs of impairment, seek assistance for problems, and notify their program supervisors when they are aware that they are unable to effectively provide services. In addition, they seek appropriate professional services for themselves to remediate the problems that are interfering with their ability to provide services to others.

## 9. Evaluation and Remediation of Students

a. Evaluation. Counselors clearly state to students, prior to and throughout the training program, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and clinical competencies. Counselor educators provide students with ongoing performance appraisal and evaluation feedback throughout the training program.

b. Limitations. Counselor educators, throughout ongoing evaluation and appraisal, are aware of and address the inability of some students to achieve counseling competencies.

- i. assist students in securing remedial assistance when needed;
- ii. seek professional consultation and document their decision to dismiss or refer students for assistance; and
- iii. ensure that students have recourse in a timely manner to address decisions to require them to seek assistance or to dismiss them and provide students with due process according to institutional policies and procedures.

c. **Counseling for Students.** If students request counseling or if counseling services are required as part of a remediation process, counselor educators provide acceptable referrals.

#### 10. Roles and Relationships between Counselor Educators and Students

a. **Sexual or Romantic Relationships.** Sexual or romantic interactions or relationships with current students are prohibited.

b. **Sexual Harassment.** Counselor educators do not condone or subject students to sexual harassment.

c. **Relationships with Former Students.** Counselor educators are aware of the power differential in the relationship between faculty and students. Faculty members foster open discussions with former students when considering engaging in a social, sexual, or other intimate relationship. Faculty members discuss with the former student how their former relationship may affect the change in relationship.

d. **Nonprofessional Relationships.** Counselor educators avoid nonprofessional or ongoing professional relationships with students in which there is a risk of potential harm to the student or that may compromise the training experience or grades assigned. In addition, counselor educators do not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

e. **Counseling Services.** Counselor educators do not serve as counselors to current students unless this is a brief role associated with a training experience.

f. **Potentially Beneficial Relationships.** Counselor educators are aware of the power differential in the relationship between faculty and students. If they believe a nonprofessional relationship with a student may be potentially beneficial to the student, they take precautions similar to those taken by counselors when working with clients. Examples of potentially beneficial interactions or relationships include, but are not limited to, attending a formal ceremony; hospital visits; providing support during a stressful event; or mutual membership in a professional association, organization, or community. Counselor educators engage in open discussions with students when they consider entering into relationships with students outside of their roles as teachers and supervisors. They discuss with students the rationale for such interactions, the potential benefits and drawbacks, and the anticipated consequences for the student. Educators clarify the specific nature and limitations of the additional role(s) they will have with the student prior to engaging in a nonprofessional relationship. Nonprofessional relationships with students should be time-limited and initiated with student consent.

#### 11. Multicultural/Diversity Competence in Counselor Education and Training Programs

a. **Faculty Diversity.** Counselor educators are committed to recruiting and retaining a diverse faculty.

b. **Student Diversity.** Counselor educators actively attempt to recruit and retain a diverse student body. Counselor educators demonstrate commitment to multicultural/diversity competence by recognizing and valuing diverse cultures and types of abilities students bring to the training experience. Counselor educators provide appropriate accommodations that enhance and support diverse student well-being and academic performance.

c. **Multicultural/Diversity Competence.** Counselor educators actively infuse multicultural/diversity competency in their training and supervision practices. They actively train students to gain awareness, knowledge, and skills in the competencies of multicultural practice. Counselor educators include case examples, role-plays, discussion questions, and other classroom activities that promote and represent various cultural perspectives.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospital, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:445 (March 1998), LR 29:149 (February 2003), LR 34:

#### **§2115. Research and Publication**

A. Counselors who conduct research are encouraged to contribute to the knowledge base of the profession and promote a clearer understanding of the conditions that lead to a healthy and more just society. Counselors support efforts of researchers by participating fully and willingly whenever possible. Counselors minimize bias and respect diversity in designing and implementing research programs.

##### 1. Research Responsibilities

a. **Use of Human Research Participants.** Counselors plan, design, conduct, and report research in a manner that is consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human research participants.

b. **Deviation from Standard Practice.** Counselors seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard or acceptable practices.

c. **Independent Researchers.** When independent researchers do not have access to an Institutional Review Board (IRB), they should consult with researchers who are familiar with IRB procedures to provide appropriate safeguards.

d. **Precautions to Avoid Injury.** Counselors who conduct research with human participants are responsible for the welfare of participants throughout the research process and should take reasonable precautions to avoid causing injurious psychological, emotional, physical, or social effects to participants.

e. **Principal Researcher Responsibility.** The ultimate responsibility for ethical research practice lies with the principal researcher. All others involved in the research activities share ethical obligations and responsibility for their own actions.

f. **Minimal Interference.** Counselors take reasonable precautions to avoid causing disruptions in the lives of research participants that could be caused by their involvement in research.



g. Multicultural/Diversity Considerations in Research. When appropriate to research goals, counselors are sensitive to incorporating research procedures that take into account cultural considerations. They seek consultation when appropriate.

## 2. Rights of Research Participants

a. Informed Consent in Research. Individuals have the right to consent to become research participants. In seeking consent, counselors use language that:

- i. accurately explains the purpose and procedures to be followed;
- ii. identifies any procedures that are experimental or relatively untried;
- iii. describes any attendant discomforts and risks;
- iv. describes any benefits or changes in individuals or organizations that might be reasonably expected;
- v. discloses appropriate alternative procedures that would be advantageous for participants;
- vi. offers to answer any inquiries concerning the procedures;
- vii. describes any limitations on confidentiality;
- viii. describes the format and potential target audiences for the dissemination of research findings; and
- ix. instructs participants that they are free to withdraw their consent and to discontinue participation in the project at any time without penalty.

b. Deception. Counselors do not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. If such deception has the potential to cause physical or emotional harm to research participants, the research is not conducted, regardless of prospective value. When the methodological requirements of a study necessitate concealment or deception, the investigator explains the reasons for this action as soon as possible during the debriefing.

c. Student/Supervisee Participation. Researchers who involve students or supervisees in research make clear to them that the decision regarding whether or not to participate in research activities does not affect one's academic standing or supervisory relationship. Students or supervisees who choose not to participate in educational research are provided with an appropriate alternative to fulfill their academic or clinical requirements.

d. Client Participation. Counselors conducting research involving clients make clear in the informed consent process that clients are free to choose whether or not to participate in research activities. Counselors take necessary precautions to protect clients from adverse consequences of declining or withdrawing from participation.

e. Confidentiality of Information. Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, be explained to participants as a part of the procedure for obtaining informed consent.

f. Persons Not Capable of Giving Informed Consent. When a person is not capable of giving informed

consent, counselors provide an appropriate explanation to, obtain agreement for participation from, and obtain the appropriate consent of a legally authorized person.

g. Commitments to Participants. Counselors take reasonable measures to honor all commitments to research participants.

h. Explanations after Data Collection. After data are collected, counselors provide participants with full clarification of the nature of the study to remove any misconceptions participants might have regarding the research. Where scientific or human values justify delaying or withholding information, counselors take reasonable measures to avoid causing harm.

i. Informing Sponsors. Counselors inform sponsors, institutions, and publication channels regarding research procedures and outcomes. Counselors ensure that appropriate bodies and authorities are given pertinent information and acknowledgement.

j. Disposal of Research Documents and Records. Within a reasonable period of time following the completion of a research project or study, counselors take steps to destroy records or documents (audio, video, digital, and written) containing confidential data or information that identifies research participants. When records are of an artistic nature, researchers obtain participant consent with regard to handling of such records or documents.

## 3. Relationships with Research Participants (When Research Involves Intensive or Extended Interactions)

a. Nonprofessional Relationships. Nonprofessional relationships with research participants should be avoided.

b. Relationships With Research Participants. Sexual or romantic counselor-research participant interactions or relationships with current research participants are prohibited.

c. Sexual Harassment and Research Participants. Researchers do not condone or subject research participants to sexual harassment.

d. Potentially Beneficial Interactions. When a nonprofessional interaction between the researcher and the research participant may be potentially beneficial, the researcher must document, prior to the interaction (when feasible), the rationale for such an interaction, the potential benefit, and anticipated consequences for the research participant. Such interactions should be initiated with appropriate consent of the research participant. Where unintentional harm occurs to the research participant due to the nonprofessional interaction, the researcher must show evidence of an attempt to remedy such harm.

## 4. Reporting Results

a. Accurate Results. Counselors plan, conduct, and report research accurately. They provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors do not engage in misleading or fraudulent research, distort data, misrepresent data, or deliberately bias their results. They explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data. They describe the extent to which results are applicable for diverse populations.

b. Obligation to Report Unfavorable Results. Counselors report the results of any research of professional value. Results that reflect unfavorably on institutions,

programs, services, prevailing opinions, or vested interests are not withheld.

c. **Reporting Errors.** If counselors discover significant errors in their published research, they take reasonable steps to correct such errors in a correction erratum, or through other appropriate publication means.

d. **Identity of Participants.** Counselors who supply data, aid in the research of another person, report research results, or make original data available take due care to disguise the identity of respective participants in the absence of specific authorization from the participants to do otherwise. In situations where participants self-identify their involvement in research studies, researchers take active steps to ensure that data are adapted/changed to protect the identity and welfare of all parties and that discussion of results does not cause harm to participants.

e. **Replication Studies.** Counselors are obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

#### 5. Publication

a. **Recognizing Contributions.** When conducting and reporting research, counselors are familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

b. **Plagiarism.** Counselors do not plagiarize, that is, they do not present another person's work as their own work.

c. **Review/Republication of Data or Ideas.** Counselors fully acknowledge and make editorial reviewers aware of prior publication of ideas or data where such ideas or data are submitted for review or publication.

d. **Contributors.** Counselors give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor is listed first and minor technical or professional contributions are acknowledged in notes or introductory statements.

e. **Agreement of Contributors.** Counselors who conduct joint research with colleagues or students/supervisees establish agreements in advance regarding allocation of tasks, publication credit, and types of acknowledgement that will be received.

f. **Student Research.** For articles that are substantially based on students course papers, projects, dissertations or theses, and on which students have been the primary contributors, they are listed as principal authors.

g. **Duplicate Submission.** Counselors submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work are not submitted for publication without acknowledgment and permission from the previous publication.

h. **Professional Review.** Counselors who review material submitted for publication, research, or other scholarly purposes respect the confidentiality and proprietary rights of those who submitted it. Counselors use care to make publication decisions based on valid and defensible standards. Counselors review article submissions in a timely manner and based on their scope and competency in research methodologies. Counselors who serve as reviewers at the request of editors or publishers make every

effort to only review materials that are within their scope of competency and use care to avoid personal biases.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospital, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:446 (March 1998), LR 29:150 (February 2003), LR 34:

#### **§2117. Resolving Ethical Issues**

A. Counselors behave in a legal, ethical, and moral manner in the conduct of their professional work. They are aware that client protection and trust in the profession depend on a high level of professional conduct. They hold other counselors to the same standards and are willing to take appropriate action to ensure that these standards are upheld. Counselors strive to resolve ethical dilemmas with direct and open communication among all parties involved and seek consultation with colleagues and supervisors when necessary. Counselors incorporate ethical practice into their daily professional work. They engage in ongoing professional development regarding current topics in ethical and legal issues in counseling.

##### 1. Standards and the Law

a. **Knowledge.** Counselors understand the ACA Code of Ethics and other applicable ethics codes from other professional organizations or from certification and licensure bodies of which they are members. Lack of knowledge or misunderstanding of an ethical responsibility is not a defense against a charge of unethical conduct.

b. **Conflicts between Ethics and Laws.** If ethical responsibilities conflict with law, regulations, or other governing legal authority, counselors make known their commitment to the Code of Conduct and Standards of Practice and take steps to resolve the conflict. If the conflict cannot be resolved by such means, counselors may adhere to the requirements of law, regulations, or other governing legal authority.

##### 2. Suspected Violations

a. **Ethical Behavior Expected.** Counselors expect colleagues to adhere to the Code of Conduct and Standards of Practice. When counselors possess knowledge that raises doubts as to whether another counselor is acting in an ethical manner, they take appropriate action.

b. **Informal Resolution.** When counselors have reason to believe that another counselor is violating or has violated an ethical standard, they attempt first to resolve the issue informally with the other counselor if feasible, provided such action does not violate confidentiality rights that may be involved.

c. **Reporting Ethical Violations.** If an apparent violation has substantially harmed, or is likely to substantially harm a person or organization and is not appropriate for informal resolution or is not resolved properly, counselors take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, voluntary national certification bodies, state licensing boards, or to the appropriate institutional authorities. This standard does not apply when an intervention would violate confidentiality rights or when counselors have been retained to review the work of another counselor whose professional conduct is in question.

d. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of the Code of Conduct, counselors consult with other counselors who are knowledgeable about ethics and the Code of Conduct, with colleagues, or with appropriate authorities.

e. Organizational Conflicts. If the demands of an organization with which counselors are affiliated pose a conflict with the Code of Conduct, counselors specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to the Code of Conduct. When possible, counselors work toward change within the organization to allow full adherence to the Code of Conduct. Ethics. In doing so, they address any confidentiality issues.

f. Unwarranted Complaints. Counselors do not initiate, participate in, or encourage the filing of ethics complaints that are made with reckless disregard or willful ignorance of facts that would disprove the allegation.

g. Unfair Discrimination against Complainants and Respondents. Counselors do not deny persons employment, advancement, admission to academic or other programs, tenure, or promotion based solely upon their having made or their being the subject of an ethics complaint. This does not preclude taking action based upon the outcome of such proceedings or considering other appropriate information.

### 3. Cooperation with Ethics Committees.

a. Counselors assist in the process of enforcing the Code of Conduct. Counselors cooperate with investigations, proceedings, and requirements of the LPC Board Disciplinary Committee. Counselors are familiar with the LPC Board Code of Conduct and Professional and Occupational Standards and procedures for processing complaints of ethical violations as it pertains to the enforcement of the Code of Conduct and Standards of Practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:447 (March 1998), LR 29:151 (February 2003), LR 34:

Interested persons may submit written comments to Gloria Bockrath, Board Chair, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70806 from March 20, 2008 until March 31, 2008. A public hearing on this proposed Rule will be held on Thursday, May 1, 2008, at 5:30 p.m., St. Luke-Simpson United Methodist Church, 1500 Country Club Rd, Room 304, Lake Charles, LA 70605.

Gloria Bockrath  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Provisions and Code of Conduct

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one time implementation cost of \$1,626 in FY 07/08 that includes the cost of promulgating the rule (\$936), legal fees (\$250), forms (\$40), and staff time (\$400).

The cost will be absorbed within the budget of the Licensed Professional Counselors (LPC) Board. There will be no impact to other 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 government.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will amend current Licensed Professional Counselors policies and procedures to conform with the latest revisions of the American Counseling Association (ACA) 2005 Code of Ethics adopted in 2005. All counselors are required to adhere to this Code of Ethics and the version to be adopted by the board will serve as the legally recognized ethical guideline for the practice in this state, as well as the primary reference for processing ethical complaints initiated against mental health.

The proposed rule will also provide better protection to the public by more succinctly and operationally defining the rules that govern the practice of Licensed Professional Counselors and Counselor Interns.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Eddy Boeneke  
Executive Director  
0803#025

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Aging and Adult Services

Home and Community Based Services Waivers  
Elderly and Disabled Adult Waiver  
(LAC 50:XXI.Chapters 81 and 85)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.Chapters 81 and 85 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, Division of Long Term Supports and Services amended the provisions governing the Elderly and Disabled Adult (EDA) Waiver to: 1) eliminate the duplication of like services provided in the waiver and as a Medicaid State Plan service; 2) define the existing service package and establish new services; and 3) revise the methodology for allocation of waiver opportunities (*Louisiana Register*, Volume 32, Number 7). The department promulgated an Emergency Rule to amend the July 20, 2006 Rule to establish provisions governing placement on the request for services registry (*Louisiana Register*, Volume 33, Number 3). The department subsequently promulgated an Emergency Rule to further clarify the provisions governing the EDA Waiver, including the provisions governing placement on the request for services registry, allocation of waiver opportunities and admission and discharge criteria (*Louisiana Register*, Volume 33, Number 5). The May 20, 2007 Emergency Rule

was amended to further clarify the provisions governing the EDA Waiver (*Louisiana Register*, Volume 33, Number 8).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to establish additional waiver opportunities in the EDA Waiver Program for individuals diagnosed with Amyotrophic Lateral Sclerosis (ALS). In compliance with Act 18, the department amended the provisions governing the programmatic allocation of EDA Waiver opportunities and continued the provisions of the August 20, 2007 Emergency Rule (*Louisiana Register*, Volume 33, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2007 Emergency Rule.

#### **Title 50**

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

## **Part XXI. Home and Community Based Services Waiver**

### **Subpart 7. Elderly and Disabled Adults Waiver**

#### **Chapter 81. General Provisions**

##### **§8101. Introduction**

A. The target population for the Elderly and Disabled Adult (EDA) Waiver Program includes individuals who:

1. are 65 years of age or older; and
2. 21-64 years of age and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

##### **§8103. Request for Services Registry**

A. The Department of Health and Hospitals (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the Elderly and Disabled Adult Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the EDA Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

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 Community Supports and Services, LR 28:835 (April 2002), amended LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

##### **§8105. Programmatic Allocation of Waiver Opportunities**

A. When funding is appropriated for a new EDA Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available.

That individual shall be evaluated for a possible EDA Waiver opportunity assignment.

B. EDA Waiver opportunities are offered based on the date of first request for services, with priority given to individuals who are in a nursing facility, but could return to their home if EDA Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. An individual is considered to be at imminent risk of nursing facility placement when he or she:

a. is likely to require admission to a nursing facility within the next 120 days;

b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or

c. has a primary caregiver who has a disability or is age 70 or older.

C. One hundred and fifty EDA Waiver opportunities are reserved for qualifying individuals who have been diagnosed with Amyotrophic Lateral Sclerosis (ALS). Qualifying individuals who have been diagnosed with ALS shall be offered an opportunity on a first-come, first-serve basis.

D. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

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

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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **Chapter 85. Admission and Discharge Criteria**

##### **§8501. Admission Criteria**

A. - A.2. ...

3. justification, as documented in the approved CPOC, that the EDA Waiver services are appropriate, cost effective and represent the least restrictive environment for the individual; and

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of EDA Waiver services.

5. Repealed.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §8501.A. will result in denial of admission to the EDA Waiver.

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 Community Supports and Services LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the

Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

### §8503. Denial or Discharge Criteria

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

1. - 2. ...

3. The recipient resides in another state or has a change of residence to another state.

4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing EDA Waiver services (exclusive of support coordination services) for a period of 30 consecutive days.

5. The health, safety and welfare of the individual cannot be assured through the provision of EDA Waiver services within the individual's cost effectiveness.

6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

7. Failure on behalf of the individual to maintain a safe and legal home environment.

8. It is not cost effective to serve the individual in the EDA Waiver.

9. - 10. 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 24:42 (January 1998); amended LR 24:457 (March 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

### 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 effect on family functioning, stability, or autonomy as described in R.S. 49:972 by facilitating access to home and community-based services through the adoption of clear and precise provisions for the EDA Waiver, and assuring that individuals diagnosed with ALS receive priority access to EDA Waiver services.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Home and Community Based Services Waivers—Elderly and Disabled Adult Waiver

#### 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 \$1,010,607 for FY 07-08, \$1,047,177 for FY 08-09, and \$1,078,592 for FY 09-10. It is anticipated that \$748 (\$374 SGF and \$374 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,569,988 for FY 07-08, \$2,640,066 for FY 08-09, and \$2,719,268 for FY 09-10. It is anticipated that \$374 will be expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the November 20, 2007 emergency rule, proposes to further clarify the provisions governing the EDA Waiver and to establish additional waiver opportunities in the EDA Waiver Program for individuals diagnosed with Amyotrophic Lateral Sclerosis (ALS) (150 additional waiver opportunities). It is anticipated that implementation of this proposed rule will increase expenditures in the EDA Waiver Program by approximately \$3,579,847 for FY 07-08, \$3,687,243 for FY 08-09 and \$3,797,860 for FY 09-10.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#069

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Office of Aging and Adult Services

Home and Community Based Services Waivers  
Elderly and Disabled Adults Waiver  
Adult Day Health Care Services  
(LAC 50:XXI.8301)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.8301 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, Bureau of Health Services Financing adopted provisions governing home and community based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana*

*Register*, Volume 30, Number 8). The Division of Long Term Supports and Services amended the provisions governing the Elderly and Disabled Adult (EDA) Waiver to: 1) eliminate the duplication of like services currently provided in the waiver and as a Medicaid State Plan service; 2) define the existing service package and establish new services; and 3) revise the methodology for allocation of waiver opportunities (*Louisiana Register*, Volume 32, Number 6). The department now proposes to amend the provisions governing services covered in the EDA Waiver to include Adult Day Health Care services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

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

**Subpart 7. Elderly and Disabled Adult Waiver**

**Chapter 83. Services**

**§8301. Service Descriptions**

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

7. Adult Day Health Care (ADHC). ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished for five or more hours per day (exclusive of transportation time to and from the ADHC facility) on a regularly scheduled basis for one or more days per week, or as specified in the plan of care. An adult day health care facility shall, at a minimum, furnish the following services:

- a. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);
- b. health and nutrition counseling;
- c. an individualized, daily exercise program;
- d. an individualized, goal directed recreation program;
- e. daily health education;
- f. medical care management;
- g. one nutritionally balanced hot meal and two snacks served each day;
- h. nursing services that include the following individualized health services:
  - i. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;
  - ii. administering medications and treatments in accordance with physicians' orders;
  - iii. monitoring self-administration of medications while the recipient is at the ADHC facility; and

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

iv. transportation to and from the facility.

NOTE: If transportation services that are prescribed in any individual's approved CPOC are not provided by the ADHC facility, the facility's reimbursement rate shall be reduced accordingly.

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 24:42 (January 1998), repromulgated LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports

and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services LR 34:

**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 allowing EDA Waiver participants access to these services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Home and Community Based Services  
Waivers—Elderly and Disabled Adults Waiver  
Adult Day Health Care Services**

**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 no increase in programmatic expenses to the state for FY 07-08, FY 08-09, and FY 09-10. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$102 will be expended in FY 07-08 for the federal administrative expenses 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 services covered through the Elderly and Disabled Adult Waiver to include Adult Day Health Care services. It is anticipated that implementation of this proposed rule will not increase program expenditures for FY 07-08, FY 08-09 and FY 09-10 because of the daily individual services expense cap established for the EDA Waiver Program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#070

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend 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. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2006 Regular Session of the Louisiana Legislature, additional funds were allocated to the department to increase the reimbursement rates paid for dental services covered under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Program. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increased the reimbursement rate for certain dental procedures and established coverage for additional procedures (*Louisiana Register*, Volume 33, Number 6). As a result of the allocation of additional funds by the legislature during the 2007 Regular Session, the bureau promulgated an Emergency Rule to amend the June 20, 2007 Rule to increase the reimbursement fees for certain dental services covered in the EPSDT Program (*Louisiana Register*, Volume 33, Number 10). This proposed Rule is being promulgated to continue the provisions of the November 1, 2007 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis and Treatment**

**Chapter 69. Dental**

**§6905. Reimbursement**

A. - A.2. ...

B. Effective for dates of service on and after November 1, 2007, the reimbursement fees for dental services are increased to 65 percent of the 2007 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate unless otherwise stated in this Chapter.

B.1.-3. Repealed.

C. Designated procedures in the following dental services categories are excluded from the rate increase. The reimbursement fees for these procedures shall continue to be the fee on file in the EPSDT Dental Program Fee Schedule as of October 31, 2007:

1. diagnostic services;
2. preventive services;
3. restorative services;
4. endodontic services;
5. periodontic services;
6. removable and fixed prosthodontic services;
7. oral and maxillofacial surgery services;
8. orthodontic services; and
9. adjunctive general services.

10.-12. 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 33:1138 (June 2007), amended LR 34:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Early and Periodic Screening, Diagnosis and Treatment—Dental Program—Reimbursement Rate Increase**

**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 \$3,304,015 for FY 07-08, \$5,870,855 for FY 08-09, and \$6,046,981 for FY 09-10. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$8,403,783 for FY 07-08, \$14,801,171 for FY 08-09, and \$15,245,206 for FY 09-10. It is anticipated that \$170 will be expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the November 1, 2007 emergency rule, proposes to increase the reimbursement fees for certain dental services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (approximately 73 dental procedures) for Medicaid eligible children under the age of 21. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$11,707,458 for FY 07-08, \$20,672,026 for FY 08-09 and \$21,292,187 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#068

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Federally Qualified Health Centers  
Reimbursement Methodology  
Payment for Adjunct Services (LAC 50:XI.10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.10703 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 Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (*Louisiana Register*, Volume 32, Number 10). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health care services. In order to facilitate access to primary and urgent care in settings other than hospital emergency departments and encourage utilization, the bureau determined that it was necessary to provide reimbursement to professional services providers, including federally qualified health centers (FQHCs), for furnishing services during evening, weekend or holiday hours.

The department promulgated an Emergency Rule to adopt provisions to allow for the reimbursement of an additional payment to FQHCs for professional services provided during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule and to provide further clarification.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 13. Federally Qualified Health Centers**

**Chapter 107. Reimbursement Methodology**

**§10703. Alternate Payment Methodology**

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program establishes an alternate payment methodology for adjunct services provided by federally qualified health centers (FQHCs) when these professional services are rendered during evening, weekend or holiday hours. This alternate payment methodology is in

addition to the Prospective Payment System methodology established for FQHC services.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee, based on the Current Procedural Terminology (CPT) procedure code, in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m. Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, by increasing access to primary and urgent care in a setting other than hospital emergency departments.

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, 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 public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Federally Qualified Health Centers  
Reimbursement Methodology—Payment for Adjunct  
Services**

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 \$35,653 for FY 07-08, \$53,228 for FY 08-09, and \$54,825 for FY 09-10. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.



II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$90,477 for FY 07-08, \$134,194 for FY 08-09, and \$138,220 for FY 09-10. It is anticipated that \$136 will be expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the October 20, 2007 emergency rule and provides further clarification, proposes to adopt provisions to establish an alternate payment methodology which allows reimbursement to Federally Qualified Health Centers (FQHCs) for professional services provided during evening, weekend or holiday hours (approximately 8,990 office visits occurring after hours). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$125,858 for FY 07-08, \$187,422 for FY 08-09 and \$193,045 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#075

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

**Nursing Facilities—Reimbursement Methodology  
Fair Rental Value, Property Tax and  
Property Insurance Incentive Payments  
(LAC 50:VII.1312)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.1312 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 amended the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility (*Louisiana Register*, Volume 33, Number 7). At the recommendation of the Centers for Medicare and Medicaid Services, the department now proposes to amend the July 20, 2007 Rule governing the fair rental value, property tax and property insurance incentive payments to buyers of nursing facilities.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care Services**

**Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement**

**§1312. Fair Rental Value, Property Tax and Property Insurance Incentive Payments to Buyers of Nursing Facilities**

A. On or after July 20, 2007, a Louisiana Medicaid participating nursing facility [buyer(s)] that purchases and closes an existing Louisiana Medicaid participating nursing facility (seller) will be eligible to receive fair rental value, property tax and property insurance incentive payments for five years after the legal transfer of ownership and closure of the seller's nursing facility.

B. Qualifying Buyer(s). In order for the buying facility to qualify for the incentive payments described in this Section, the following conditions must be met.

1. Buyer(s) must purchase and close a Medicaid-certified nursing facility within 90 days after the legal transfer of ownership from the seller to buyer(s).

2. After closing the facility, all buyer(s) must permanently surrender their interest in the seller's bed license and the Facility Need Review bed approvals to the state.

3. The buyer(s) must be a Medicaid-certified nursing facility operator(s) at the time of purchase and continue their Medicaid participation throughout the entire five year payment period. A change in ownership of a buyer facility will not be considered a break in Medicaid participation provided the new owner of the nursing facility continues participation in the Medicaid Program as a Medicaid-certified nursing facility.

a. Repealed.

4. The buyer(s) must provide the following documentation to the secretary of the department, in writing, within 30 days after the legal transfer of ownership:

- a. a list of all buyer(s);
- b. a list of all seller(s);
- c. the date of the legal transfer of ownership;
- d. each buyer's percentage share of the purchased facility; and

e. each buyer's current nursing facility resident listing and total occupancy calculations as of the date of the legal transfer of ownership.

5. The buyer(s) must provide the following documentation to the secretary of the department, in writing, within 110 days after the legal transfer of ownership:

a. a list of the nursing facility residents that transferred from the seller facility and were residents of the buyer facility as of 90 days after the legal transfer of ownership date. The nursing facility resident list must include the payer source for each resident;

b. the date that the seller's facility was officially closed and no longer operating as a nursing facility.

C. Incentive Calculation. The total annual Medicaid incentive payment for each transaction will be based on the number of beds surrendered from the closed facility and the

cumulative percentage increase in occupancy for all buyers involved in the purchase.

1. Beds surrendered will be based on the licensed beds surrendered for the closed facility. The number of beds surrendered will determine the base capital amount used in the incentive payment calculation as follows.

a. Under 115 beds surrendered will result in a base capital amount of \$303,216.

b. 115 through 144 beds surrendered will result in a base capital amount of \$424,473.

c. 145 beds or more surrendered will result in a base capital amount of \$597,591.

2. The cumulative increase in total nursing facility occupancy for all buyers involved in the transaction will be calculated based on the total occupancy reported for all buyers at the purchase date as required by §1312.B.4.e and the reported increase in total residents received from the seller as required by §1312.B.5.a.

a. Cumulative occupancy increases for all buyers will determine the percentage of the base capital amount used in the incentive payment calculation as follows:

i. less than 5.00 percent will result in 67 percent of the base capital amount;

ii. 5.00 percent through 9.99 percent will result in 78 percent of the base capital amount;

iii. 10.00 percent through 14.99 percent will result in 89 percent of the base capital amount;

iv. 15.00 percent and up will result in 100 percent of the base capital amount.

3. Annual Medicaid Incentive Payment Calculation. The payment amount that corresponds to the cumulative occupancy increase for all buyers and the number of beds surrendered will be multiplied by each buyer's percentage share in the transaction as reported in accordance with §1312.B.4.d. The result will be each buyer's total annual Medicaid incentive payment for five years.

a. Repealed.

b. Repealed.

c. Repealed.

4. Base Capital Amount Updates. On July 1 of each year, the base capital amounts (as defined in §1312.C.1) will be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, adjusted by the weighted average total city cost index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. Adjustments to the base capital amount will only be applied to purchase and closure transactions occurring after the adjustment date.

D. Re-Base of Buyers' Fair Rental Value, Property Tax, and Property Insurance per Diems. All buyers will have their fair rental value, property tax, and property insurance per diems re-based using the number of residents reported by each buyer as required by §1312.B.5.a. The re-base will be retroactive to the date of closure of the purchased facility. The calculation will be as follows.

1. Prior to application of the minimum occupancy calculation, the actual number of total resident days used in

the calculation of each buyer's current fair rental value per diem as described in §1305.D.3.b.(iii) will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the total number of current rate year days.

2. The number of total resident days used in the calculation of each buyer's current pass through property tax and insurance per diem as described under §1305.D.4.a will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the number of calendar days included in the buyer's most recent base-year cost report.

3. The resident day adjustment to each buyer's fair rental value, property tax, and property insurance per diem will continue until the buyer's base-year cost report, as defined under §1305.B, includes a full 12 months of resident day data following the closure of the acquired facility (seller). If a buyer's base year cost report overlaps the closure date of the acquired facility, a proportional adjustment to that buyer's resident days will be made for use in the fair rental value, property tax, and property insurance per diem calculations.

#### E. Payments

1. The fair rental value, property tax and property insurance incentive payment will be paid to the buyer(s) as part of their Medicaid per diem for current services billed over five years (20 quarters), effective the beginning of the calendar quarter following the closure of the seller's facility and the surrender of the seller's licensed beds to the department. The per diem will be calculated as the buyer's annual Medicaid incentive payment as defined under §1312.C.3 divided by annual Medicaid days. Annual Medicaid days will be equal to Medicaid residents transferred from the seller facility, as determined under §1312.B.5.a., multiplied by total current rate year days plus the buyer's annualized Medicaid days from the most recent base year cost report. If the most recent base year cost report includes or overlaps the period of the transfer, an adjustment will be made to avoid including the transferred days twice.

2. The revised fair rental value per diem and revised property tax and insurance per diem for the buyer(s) will be effective the first day of the month following the closure of the acquired facility (seller).

3. The incentive per diems, the revised fair rental value per diem, and revised property tax and insurance per diem will be updated at every case-mix rebase effective date.

4. The incentive payments when combined with all other Medicaid nursing facility payments shall not exceed the Medicare upper payment limit.

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 33:1349 (July 2007), amended LR 34:

#### 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.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Nursing Facilities  
Reimbursement Methodology  
Fair Rental Value, Property Tax and  
Property Insurance Incentive Payments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$272 will be collected in FY 07-08 for the federal share of the administrative expenses 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 the fair rental value, property tax and property insurance incentive payments to buyers of nursing facilities. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or nongovernmental groups in FY 07-08, FY 08-09, and FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will promote quality care, increase efficiency and encourage nursing homes to operate at an occupancy level of ninety-five percent.

Jerry Phillips  
Medicaid Director  
0803#072

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Aging and Adult Services**

**Nursing Facilities—Standards for Payment  
Level of Care Determination  
(LAC 50:II.10154)**

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:II.10154 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, Division of Long Term Supports and Services amended the Medicaid standards governing nursing facility levels of care to incorporate a new tool for the nursing facility level of care determination. This new tool, the Level of Care Evaluation Tool (LOCET), established uniform criteria which are utilized in the determination of level of care for nursing facility services (*Louisiana Register*, Volume 32, Number 11). The Office of Aging and Adult Services promulgated an Emergency Rule to amend the November 20, 2006 Rule to provide further clarification regarding the level of care determination for nursing facility admission (*Louisiana Register*, Volume 33, Number 11). This proposed Rule is being promulgated to continue the provisions of the December 1, 2007 Emergency Rule.

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 and autonomy as described in R.S. 49:942.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part II. Medical Assistance Program**

**Subpart 3. Standards for Payment**

**Chapter 101. Standards for Payment for Nursing Facilities**

**Subchapter G. Levels of Care**

**§10154. Determination of Nursing Facility Level of Care**

A. ....

B. Definition of Nursing Facility Level of Care. The nursing facility level of care determination is based on the Resource Utilization Groups III (RUG-III) case mix system used in the Medicare Program and at least half of all state Medicaid programs. RUG-III is a patient classification system that measures for the relative resource utilization of different nursing facility patient types (*Federal Register*, Volume 63, Number 91 [May 12, 1998]). It is utilized to ensure consistency, uniformity, and reliability in making nursing facility level of care determinations.

1. RUG-III assigns each nursing facility resident to one of 44 distinct classification groups, based on the characteristics of the resident as assessed in the Nursing Home Minimum Data Set (MDS), so as to predict the resources expected to be used to meet the resident's functional support requirements and medical needs. The Long Term Care Resident Assessment Instrument User's Manual for the MDS explains how resident characteristics are used to assign an individual to a RUG-III classification.

2. Medicare presumes that individuals assigned to the upper 26 of 44 RUG-III classification groups meet the skilled nursing facility level of care definition set forth in federal law. However, states have the discretion to establish their own definitions of nursing facility level of care for purposes of the Medicaid Program.

3. Louisiana defines nursing facility level of care for Medicaid eligible individuals as the care required by individuals with needs greater than those identified by the lowest of the RUG-III classification groups (i.e., Physical Function Reduced Group A, with or without rehabilitation, also known as PA1 and PA2). Individuals determined to be in any of the upper 42 of 44 RUG-III classification groups meet the level of care for nursing facility admission and/or continued stay for the purposes of the Louisiana Medicaid Program.

C. Level of Care Determination. The Level of Care Evaluation Tool (LOCET) is used to assess whether an individual may meet the nursing facility level of care. The LOCET is derived from selected information in the Minimum Data Set (MDS), which is the standardized assessment tool used by Medicare to assign nursing facility residents to a RUG-III classification group. Consistent with the standard of nursing facility level of care defined in Paragraph B, the MDS data elements included in LOCET are those necessary to determine whether an individual would be assigned to a RUG-III category other than PA1 or PA2. To make this assessment, LOCET questions address the individual's need for assistance with the activities of daily living; cognitive function; skilled rehabilitative services; physician involvement; behavior; and certain treatment and conditions.

1. The LOCET information must be provided by the applicant or someone who is sufficiently familiar with the applicant to be able to provide all required information completely and accurately.

2. If on an audit review or other subsequent face-to-face interview, the LOCET findings are determined to be incorrect, the audit or subsequent face-to-face interview findings will prevail.

D. Service Dependency. Individuals who were approved for services prior to December 1, 2006, and who require continued ongoing services to maintain current functional status are deemed to meet the definition set forth in Paragraph B for purposes of continued eligibility for those services.

E. Supporting Documentation. As directed by the department, applicants may be required to submit documentation necessary to support the determination of nursing facility level of care.

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, Division of Long Term Supports and Services, LR 32:2082 (November 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Nursing Facilities—Standards for  
Payment Level of Care Determination**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$204 will be collected in FY 07-08 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, which continues the provisions of the December 1, 2007 emergency rule, proposes to amend the provisions governing nursing facilities to provide further clarification regarding the level of care determination for nursing facility admission. It is anticipated that implementation of this proposed rule will not have an estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#071

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Professional Services Program—Adult Immunizations  
(LAC 50:IX.Chapters 83-87)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:IX.Chapters 83-87 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health services. In order to promote the improvement of health care outcomes, the Bureau of Health Services Financing determined that it would be beneficial to allow Medicaid coverage of certain adult immunizations provided by a medical professional for influenza, pneumococcal and human papillomavirus (HPV) diseases. These immunizations are covered for Medicaid recipients who are age 21 or older. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to authorize reimbursement of adult immunizations for influenza, pneumococcal and HPV diseases (*Louisiana Register*, Volume 33, Number 9). This proposed Rule is being promulgated to continue the provisions of the October 1, 2007 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part IX. Professional Services Program**

**Subpart 7. Immunizations**

**Chapter 83. Children's Immunizations (Reserved)**

**Chapter 85. Adult Immunizations**

**§8501. General Provisions**

A. Effective October 1, 2007, the department shall provide Medicaid coverage for certain immunizations administered by enrolled Medicaid providers to adult recipients, age 21 or older. Adult immunizations shall be covered for the following diseases:

1. influenza;
2. pneumococcal; and
3. human papillomavirus (HPV).

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:

**§8503. Coverage Restrictions**

A. HPV Immunizations. Immunizations for HPV are restricted to female recipients from age 21 through 26 years old.

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:

**Chapter 87. Reimbursement**

**§8701. Reimbursement Methodology**

A. Adult Immunizations. Providers shall be reimbursed according to the established fee schedule for the vaccine and the administration of the vaccine.

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:

**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 effect on family functioning, stability, or autonomy as described in R.S. 49:972 by increasing recipient access to preventive care to aid in the eradication of serious illnesses that may disrupt normal family functioning.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Professional Services Program  
Adult 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 \$2,943,146 for FY 07-08, \$4,067,514 for FY 08-09, and \$4,189,540 for FY 09-10. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$7,485,937 for FY 07-08, \$10,254,719 for FY 08-09, and \$10,562,360 for FY 09-10. It is anticipated that \$136 will be expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the October 1, 2007 emergency rule, proposes to adopt provisions allowing for the reimbursement of adult immunizations for influenza,

pneumococcal and human papillomavirus (HPV) diseases (approximately 189,431 immunizations). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$10,428,811 for FY 07-08, \$14,322,233 for FY 08-09 and \$14,751,900 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#073

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Professional Services Program  
Physicians Services—Payment for Adjunct Services  
(LAC 50:IX.15121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health care services. In order to facilitate access to primary and urgent care in settings other than hospital emergency departments and encourage utilization, the bureau determined that it was necessary to provide reimbursement to professional services providers who provide and report services rendered during evening, weekend or holiday hours.

The department promulgated an Emergency Rule to adopt provisions allowing for the reimbursement of an additional payment to professional services providers for services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule and to provide further clarification.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part IX. Professional Services Program**

**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**

**§15121. Payment for Adjunct Services**

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program shall provide reimbursement for the payment of adjunct services in addition to the reimbursement for evaluation and management services and the associated ancillary services when these professional services are rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

B. The reimbursement for adjunct services is a flat fee, based on the Current Procedural Terminology (CPT) procedure code, in addition to the reimbursement for the associated evaluation and management services and associated ancillary services.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m. Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by enhancing access to physician services and lessening the need to take time off of work in order to receive medical services.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Professional Services Program  
Physicians Services—Payment for Adjunct Services**

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 \$980,982 for FY 07-08, \$1,470,001 for FY 08-09, and \$1,514,101 for FY 09-10. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,495,054 for FY 07-08, \$3,706,058 for FY 08-09, and \$3,817,240 for FY 09-10. It is anticipated that \$102 will be

expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the October 20, 2007 emergency rule and provides further clarification, proposes to adopt provisions to establish an alternate payment methodology which allows reimbursement to professional services providers (physician services) for services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (approximately 278,240 office visits occurring after hours). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$3,475,832 for FY 07-08, \$5,176,059 for FY 08-09 and \$5,331,341 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#074

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

**Rural Health Clinics—Reimbursement Methodology  
Payment for Adjunct Services  
(LAC 50:XI.16703)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.16703 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 governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 12). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health care services. In order to facilitate access to primary and urgent care in settings other than hospital emergency departments and encourage utilization, the bureau determined that it was necessary to provide reimbursement to professional services providers, including rural health clinics, for furnishing services during evening, weekend or holiday hours. The department promulgated an Emergency Rule to adopt provisions to allow for the reimbursement of an additional payment to rural health clinics for professional services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This proposed Rule is being promulgated to continue the provisions of the

October 20, 2007 Emergency Rule and to provide further clarification.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 15. Rural Health Clinics**

**Chapter 167. Reimbursement Methodology**

**§16703. Alternate Payment Methodology**

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program establishes an alternate payment methodology for adjunct services provided by rural health clinics (RHCs) when these professional services are rendered during evening, weekend or holiday hours. This alternate payment methodology is in addition to the Prospective Payment System methodology established for RHC services.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee, based on the Current Procedural Terminology (CPT) procedure code, in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m. Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing access to primary and urgent care in a setting other than hospital emergency departments.

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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: Rural Health Clinics  
Reimbursement Methodology  
Payment for Adjunct Services**

**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 \$83,011 for FY 07-08, \$124,202 for FY 08-09, and \$127,928 for FY 09-10. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$210,937 for FY 07-08, \$313,128 for FY 08-09, and \$322,522 for FY 09-10. It is anticipated that \$136 will be expended in FY 07-08 for the federal administrative expenses 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, which continues the provisions of the October 20, 2007 emergency rule and provides further clarification, proposes to adopt provisions to establish an alternate payment methodology which allows reimbursement to rural health clinics (RHCs) for adjunct services provided during evening, weekend or holiday hours (approximately 20,977 office visits occurring after hours). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$293,676 for FY 07-08, \$437,330 for FY 08-09 and \$450,450 for FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#076

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Targeted Case Management  
Nurse Family Partnership Program  
(LAC 50:XV.11101-11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50.XV.11101-11103 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 Nurse Family Partnership (NFP) Program to expand the Department of Health and Hospitals (DHH) administrative regions (*Louisiana Register*, Volume 31, Number 8). The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain DHH administrative regions. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau promulgated an Emergency Rule to amend the August 20, 2005 Rule to clarify that the first-time mother continues to be the focus of the NFP Program after the birth of the child (*Louisiana Register*, Volume 32, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2006 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 7. Targeted Case Management**

**Chapter 111. Nurse Family Partnership Program**

**§11101. Introduction**

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 34:

**§11103. Recipient Qualifications**

A. A Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

A.1. - B.3. ...

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 34:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by improving the health and social functioning of Medicaid eligible first-time mothers and their babies.



Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, 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. A public hearing on this proposed Rule is scheduled for Thursday, April 24, 2008 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**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$170 will be collected in FY 07-08 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, which continues the provisions of the July 20, 2006 emergency rule, proposes to amend the provisions governing targeted case management to clarify that the first-time mother continues to be the focus of the Nurse Family Partnership (NFP) Program after the birth of the child. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0803#077

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Explosive Code (LAC 55.I.1511 and 1531)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 40:1472.1 et seq., gives notice of its intent to amend its Rules regulating explosives to incorporate legislative changes with regard to the necessity of obtaining an explosives license to handle explosives, and to adopt federal standards with regard to the construction of magazines.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 15. Explosive Code**

**Subchapter A. General**

**§1511. Magazine Construction Requirements**

A. - D. ...

E. Magazines constructed according to the following minimum specifications are approved as bullet-resistant and fire-resistant.

1. Exterior Construction

a. The exterior and doors are to be constructed of not less than 1/4 inch steel and lined with at least 2 inches of hardwood. Magazines with top openings will have lids with water-resistant seals or which overlap the sides by at least 1 inch when in a closed position.

2. General

a. Outdoor magazines (Types 1 and 2) are to be bullet-resistant, fire-resistant, weather-resistant, theft-resistant and ventilated. They are to be supported to prevent direct contact with the ground and, if less than one cubic yard in size, must be securely fastened to a fixed object. The ground around outdoor magazines must slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines must have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the director.

F. ...

G. Magazines shall be constructed in accordance with the rules and regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives, 27 Code of Federal Regulations Parts 555.207, 555.208, 555.209, 555.210 and 555.211.

Types 1,2,3, or 4 magazines shall be constructed with a lattice, paint, mastic, or equivalent lining, to prevent contact of explosive materials with masonry walls or ferrous metal.

H.- O. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1472.1 et seq.

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:

**§1531. General Requirements**

A. The handling of explosives shall be performed only by a person holding a valid and subsisting license to use explosives.

B. It is a violation of this Chapter for any person to engage in handling, touching, moving, etc., of explosives or to engage in the business of a manufacturer-distributor or dealer in explosives, or to acquire, sell, possess, store, or engage in the use of explosives in this state, unless that person possesses an appropriate license issued by the Deputy Secretary of Public Safety Services. Licensed geophysical contractors may contract with licensed drilling contractors to possess and use explosives for the sole purpose of executing the contract between the two parties. All explosives shall be returned to the licensed geophysical contractor at the end of each day. For purposes of this Section, the transfer of the temporary possession of explosives between the contracting parties shall not constitute a sale. The safety and security of the explosives and the compliance with these regulations shall be the responsibility of the party to the contract who is in possession of the explosives. There shall be no requirement that the drilling contractor be licensed by each geophysical contractor with whom he contracts.

C. - O.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:

**Family Impact Statement**

1. The Effect of This Rule on the Stability of the Family. This Rule should not have any affect 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 affect 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 affect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule should not have any affect 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 affect 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 affect on the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66351, Baton Rouge, LA 70896-

6351. Written comments will be accepted through April 15, 2008.

Jill Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Explosive Code**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Proposed rule changes, which include adopting federal standards for magazine construction and incorporating statutory changes regarding the necessity of a license to handle explosives, should have no implementation costs or savings upon Louisiana State Police or other state or local governmental entities.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no impact on state or local governmental revenues as a result of these proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There could be a minor increase in costs to the explosives industry as a result of this measure due to the cost of licensure for those persons who previously did not require a license. Also, current Louisiana magazine manufacturers already adhere to stricter standards than those provided within these proposed rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes should not affect competition or employment.

Jill Boudreaux  
Undersecretary  
0803#028

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Statewide Order No. 29-B—Commercial Exploration and Production Waste Facilities  
(LAC 43:XIX.501, 511, 547, 549, and 565)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.Chapter 5 (Statewide Order No. 29-B) in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The proposed amendment modifies the specific provisions at LAC 43:XIX.501, 511.A, 547.G, 549.C.3, 549.D, 549.E.2, and 565.F which provide for definitions and financial responsibility, and establish the limitations for treatment, closure and on-site reusable material for the parameters of total barium and zinc at commercial Exploration and Production Waste (E&P Waste) land treatment facilities.

The amendment to the above existing Rules will revise and update operational limits for treatment and closure for total barium and zinc at commercial E&P Waste land treatment facilities. The amendment will also revise and update limits for total barium for on-site reusable material at commercial E&P Waste land treatment facilities. The proposed amendment is intended to update the regulations to address changes in industry practices consistent with both state and federal environmental guidelines. Additionally this proposal corrects and clarifies certain portions of Chapter 5 concerning definitions, commercial E&P Waste treatment and disposal options, and financial responsibility requirements.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation**

**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**

**§501. Definitions**

\* \* \*

*Exploration and Production Waste (E&P Waste)*—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to the following.

Waste Type	E&P Waste Description
15	E&P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E&P Wastes defined as Waste Types 01 and 06.
16	Crude oil spill clean-up waste.
50	Salvageable hydrocarbons bound for permitted salvage oil operators.
99	Other E&P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport).

\* \* \*

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 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:931 (June 2003), LR 34:

**§511. Financial Responsibility**

A. Each permitted commercial facility and transfer station must maintain evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or E&P Waste offsite from the commercial facility or transfer station. Such evidence must be provided by the applicant prior to issuance of a permit. Failure to maintain such evidence shall lead to initiation of procedures for permit suspension. If suspended, the permit shall remain suspended until financial responsibility has been confirmed.

B. - H. ...

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 26:2819 (December 2000), amended LR 27:1902 (November 2001), LR 29:938 (June 2003), LR 34:

**§547. Commercial Exploration and Production Waste Treatment and Disposal Options**

A. - F. ...

G. Repealed.

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 29:938 (June 2003), LR 34:

**§549. Land Treatment Facility Requirements**

A. - C.2. ...

3. Throughout the operational life of a land treatment cell, in order to end the treatment phase and re-enter the application phase, a cell must be shown to comply with the following criteria.

Parameter	Limitation
PH	6.5 - 9
EC	10 mmhos/cm
SAR	12
ESP	15 percent
TPH	3 percent (by weight)
Metals (ppm)	
Arsenic	40
Cadmium	10
Chromium	1,000
Copper	1,500
Lead	300
Molybdenum	18

Waste Type	E&P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water.
02	Oil-base drilling wastes (mud, fluids and cuttings).
03	Water-base drilling wastes (mud, fluids and cuttings).
04	Completion workover and stimulation fluids.
05	Production pit sludges.
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B,S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems.
07	Produced oily sands and solids.
08	Produced formation fresh water.
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities.
10	Washout water and residual solids generated from the cleaning of containers that transport E&P Waste and are not contaminated by hazardous waste or material; washout water and solids (E&P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container holding a residual amount of E&P Waste.
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material.
12	Nonhazardous Natural gas plant processing waste solids.
13	(Reserved).
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e. waste fluids/solids generated from the cleaning of a pipeline.

Parameter	Limitation
Nickel	420
Mercury	10
Selenium	10
Silver	200
Zinc	2,300
Leachate Testing*	
Barium	10.0 mg/l

\* The Leachate testing method for Barium is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

C.4. - D.1. ...

a. Soil in the treatment zone (0-24") of each cell must be sampled for the following parameters: pH, EC, SAR, ESP, CEC, TPH, As, barium leachate, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

b. - c. ...

2. The following monitoring program must be conducted during the active life of a permitted E&P Waste land treatment system.

a. Soil in the treatment zone (waste treatment zone—WTZ and upper treatment zone—UTZ) must be sampled and tested quarterly to determine E&P Waste degradation and accumulation of metals and hydrocarbons. Samples must be analyzed for the following: As, barium leachate, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, Zn, and TPH.

D.2.b. - D.3.f. ...

E. Closure and Post-Closure Monitoring

1. ....

2. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria.

Parameter	Criteria	No. of Consecutive Samples
<b>Soils in the Treatment Zone</b>		
PH	6.5 - 9	2
TPH	≤ 3.0 percent	2
EC	≤ 10.0 mmhos/cm	2
TCLP Benzene	≤ 0.5 ppm	2
SAR	≤ 12	2
ESP	≤ 15 percent	2
Metals (ppm)		
As	≤ 10	2
Cd	≤ 10	2
Cr	≤ 1000	2
Cu	≤ 1,500	2
Pb	≤ 1000	2
Hg	≤ 10	2
Mo	≤ 18	2
Ni	≤ 420	2
Se	≤ 10	2
Ag	≤ 200	2
Zn	≤ 2,300	2
Leachate Testing*		
Ba	10.0 mg/l	2
<b>Runoff Water</b>		
PH	6.5 - 9.0	4
TPH	≤ 15 ppm	4
TCLP Benzene	≤ 0.5 ppm	4
EC	≤ 2.0 mmhos/cm	4
SAR	≤ 10 ppm	4

Parameter	Criteria	No. of Consecutive Samples
TSS	≤ 60 ppm	4
Chloride	500 ppm	4
Metals (ppm)		
As	≤ 0.2	4
Ba	≤ 10	4
Cd	≤ 0.05	4
Cr	≤ 0.15	4
Cu	≤ 1.3	4
Hg	≤ 0.01	4
Pb	≤ 0.10	4
Se	≤ 0.05	4
Zn	≤ 1.0	4

\* The Leachate testing method for Barium is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

3. ...

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 27:1912 (November 2001), amended LR 34:

**§565. Resource Conservation and Recovery of Exploration and Production Waste**

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

F. Testing Criteria for Reusable Material

Parameter	Limitation
Moisture Content	< 50% (by weight) or zero free moisture
pH*	6.5 - 9.0
Electrical Conductivity (EC)	8 mmhos/cm
Sodium Adsorption Ratio (SAR)	12
Exchangeable Sodium Percentage (ESP)	15%
Total Barium: Reuse at Location other than Commercial facility-----	40,000 ppm
Leachate Testing** for:	
TPH	10.0 mg/l
Chlorides	500.0 mg/l
TCLP Benzene	0.5 mg/l
Leachate Testing**:	
Arsenic	0.5 mg/l
Barium	10.0 mg/l
Cadmium	0.1 mg/l
Chromium	0.5 mg/l
Copper	0.5 mg/l
Lead	0.5 mg/l
Mercury	0.02 mg/l
Molybdenum	0.5 mg/l
Nickel	0.5 mg/l
Selenium	0.1 mg/l
Silver	0.5 mg/l
Zinc	5.0 mg/l
NORM	Not to exceed Applicable DEQ Criteria/Limits

\* E&P Waste when chemically treated (fixed) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and leachate tests for metals in §565.F above.

\*\*The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest version).

G. - I. ...

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 27:1910 (November 2001), amended LR 29:939 (June 2003), LR 34:

**Family Impact Statement**

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:XIX.501, 511.A, 547.G, 549.C.3, 549.D, 549.E.2, and 565.F on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.
2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rule amendment will have no effect on the functioning of the family.
4. The proposed Rule amendment will have no effect on family earnings and family budget.
5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

The Commissioner of Conservation will conduct a public hearing at 9 a.m., April 28, 2008, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., May 5, 2008, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2008-01 on all correspondence.

James H. Welsh  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Statewide Order No. 29-B—Commercial Exploration and Production Waste Facilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no anticipated 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)  
No costs and/or economic benefits are anticipated to directly impact affected persons or non-governmental groups. The proposed rule amendment will revise and update limitations for total barium and zinc. The proposed amendment is intended to update the regulations to address changes in industry practices consistent with both state and federal environmental guidelines.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

James H. Welsh  
Commissioner  
0803#042

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Statewide Order No. 29-B—Waste Type 04 Disposal Requirements (LAC 43:XIX.503, 505, 547, and 549)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.Chapter 5 (Statewide Order No. 29-B) in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The proposed amendment modifies specific provisions of LAC 43:XIX.503.G, 503.H, 505.B, 547.D, and 549.C.7.f, which establish the general requirements for generators of Exploration and Production Waste (E&P Waste), the general requirements for commercial facilities, and land treatment facility requirements respectively.

The amendment to the above existing rules will prohibit the treatment or disposal of completion, workover and stimulation fluids (Waste Type 04) by land treatment at a commercial E&P Waste land treatment facility. The proposed amendment is intended to address changes in industry practices, which already generally occur, and to maintain proper protection of public health, safety, welfare and the environment.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation**

**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**

**§503. General Requirements for Generators of E&P Waste**

A. - F.7. ...

G. Requirements for E&P Waste, Waste Type 04 (completion, workover and stimulation fluids)

1. Waste Type 04 shall not be treated or disposed of by means of land treatment at a commercial land treatment facility.

H. Prohibition of Waste Mixing

1. A mixture of E&P Wastes containing amounts greater than residual quantities of Waste Type 06 (and associated wash water) shall be designated as Waste Type 06, and if land treated, must meet the distance requirements for Waste Type 06 in §507.A.3 below.

2. Mixing Waste Type 12 with any other E&P Waste type prior to sampling and shipment to a commercial land treatment facility or transfer station is strictly prohibited.

3. Mixing Waste Type 04 with any other E&P Waste prior to shipment to a commercial land treatment facility for the purpose of waste treatment or disposal by means of land treatment is strictly prohibited.

4. Any inadvertent or unavoidable mixture of E&P Wastes containing any quantity of Waste Type 12 (and associated wash water) must meet the MPC testing criteria of §549.C.7.a for total benzene and must meet the distance requirements for Waste Type 12 in §507.A.3.

I. General Reporting Requirements

1. Any spills which occur during the offsite transportation of E&P Waste shall be reported by phone to the Office of Conservation, within 24 hours of the spill and the appropriate state and federal agencies.

2. Operators (generators) are required to report the discovery of any unauthorized disposal of E&P Waste by discoverers, or any other oilfield contracting company.

3. Within six months of the completion of the drilling or workover of any well permitted by the Office of Conservation, the operator (generator) shall comply with the reporting requirements of LAC 43:XIX.303 or successor regulations regarding the disposition of any E&P Wastes.

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 26:2813 (December 2000), amended LR 27:1900 (November 2001), LR 29:937 (June 2003), LR 34:

**§505. General Requirements for Commercial Facilities and Transfer Stations**

A. ...

B. Commercial land treatment facilities shall not receive or store completion, workover or stimulation fluids (Waste Type 04), or any E&P Waste mixture containing Waste Type 04, for the purpose of treating or disposing of such waste by means of land treatment.

C. Commercial land treatment facilities may not receive, store, treat or dispose of natural gas plant processing waste solids (Waste Type 12) that exceed the MPC criteria of §549.C.7.a for total benzene (3198 mg/kg) unless the company has demonstrated to the commissioner that Waste Type 12 can be pretreated to below the applicable MPC prior to land treatment. Such demonstration shall be considered a major modification of any existing permit and will require compliance with the permitting procedures of §§519, 527, and 529, including the submission of an application and public participation. The E&P waste management and operations plan required in §515 shall clearly indicate how the E&P Waste storage and treatment system will minimize the release of benzene (e.g., enclosed tanks, enclosed treatment equipment, vapor recovery systems, etc.). Such demonstration shall also include proof of solicitation from DEQ regarding applicable required air permitting for the existing and amended land treatment system.

D. Land treatment facilities that accept Waste Type 06 must meet the location criteria of §507.A.3 and the E&P Waste pretreatment and treatment criteria of §549.C.7.c and d.

E. Approval of Transfer Station Required: The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of §521.

F. The commissioner will consider and encourages the electronic submission of applications, data or reports required under this Chapter.

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 26:2813 (December 2000), amended LR 27:1901 (November 2001), LR 29:937 (June 2003), LR 34:

**§547. Commercial Exploration and Production Waste Treatment and Disposal Options**

A. - C. ...

D. Waste Types 02, 03, 05, 06, 07, 08, 09, 10, 11, 14, 15, 16, and 99 (and associated washwater) may be treated and disposed by land treatment methods in accordance with the buffer (location) requirements of §507.A.3.

E. - F. ...

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 29:938 (June 2003), LR 34:

**§549. Land Treatment Facility Requirements**

A. - C.7.e. ...

f. Waste Type 04 (completion, workover or stimulation fluids) shall not be treated or disposed of by land treatment.

g. Produced saltwater and gas plant waste fluids, must not be disposed of by land treatment. If pretreated prior to disposal (e.g., filtered or otherwise phase separated) fluids must be injected into a Class II well.

C.8. - E.3. ...

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 27:1912 (November 2001), LR 34:

**Family Impact Statement**

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:XIX.503.G, 503.H, 505.B, 547.D, and 549.C.7.f on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.

2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule amendment will have no effect on the functioning of the family.

4. The proposed Rule amendment will have no effect on family earnings and family budget.

5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

The Commissioner of Conservation will conduct a public hearing at 9 a.m., April 28, 2008, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the

public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., May 5, 2008, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2008-02 on all correspondence.

James H. Welsh  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Statewide Order No. 29-B  
Waste Type 04 Disposal Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated 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)  
No costs and/or economic benefits are anticipated to directly impact affected persons or non-governmental groups. The proposed rule amendment will prohibit the treatment or disposal of completion, workover, and stimulation fluids (E&P Waste, Waste Type 04) by land treatment at a commercial Exploration and Production Waste (E&P Waste) land treatment facility. The proposed amendment is intended to address changes in industry practices, which already generally occur, and to maintain proper protection of public health, safety, welfare and the environment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

James H. Welsh  
Commissioner  
0803#043

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Revenue  
Policy Services Division**

**Income Tax Credits for Wind or Solar Energy Systems  
(LAC 61:I.1907)**

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, 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.1907 relative to income tax credits for wind or solar energy systems.

Act 371 of the 2007 Regular Session of the Louisiana Legislature enacted R.S. 47:6026 to allow an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state. The section was redesignated as R.S. 47:6030 pursuant to the

statutory revision authority of the Louisiana State Law Institute. This Rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems.

**Title 61**

**REVENUE AND TAXATION**

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

**Chapter 19. Miscellaneous Tax Exemptions, Credits  
and Deductions**

**§1907. Income Tax Credits for Wind or Solar Energy  
Systems**

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state.

B. Definitions

*Charge Controller*—an apparatus designed to control the state of charge of a bank of batteries.

*Grid-Connected, Net Metering System*—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's, the New Orleans City Council's, or other Louisiana utility regulatory entity, as appropriate, established net metering rules and procedures.

*Inverter*—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

*Photovoltaic Panel*—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

*Residence*—a single family dwelling, one dwelling unit of a multi-family owner occupied complex, or one residential dwelling unit of a rental apartment complex. All eligible residences must be located in Louisiana.

*Solar Electric System*—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

*Solar Thermal System*—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

*Supplemental Heating Equipment*—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

*Wind Energy System*—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy

and transferring this form of energy by a separate apparatus to the point of use or storage.

**C. Household Eligibility for Wind and/or Solar Energy Systems Tax Credits**

1. Each residence or apartment project in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence or apartment project is supplied with all of its energy needs.

2. The credit for the purchase and installation of a wind energy system or solar energy system by a resident individual at his residence shall be claimed by the resident individual on his Louisiana individual income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

4. All wind or solar energy systems must be installed in the immediate vicinity of the residence or apartment project claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence or apartment project.

5. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system the components for each system must be purchased and installed at the same time as a system. Eligible components of systems are defined in Paragraphs D.2 through D.4 below.

**D. Wind and Solar Energy Systems Eligible for the Tax Credit**

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems. Local and state taxes are an eligible system cost.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	Mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connect net metering systems with

battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	Photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	Photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Solar Pool Heating System	Solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the



component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following as applicable to your particular solar or wind energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
  - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
  - ii. Solar Thermal Systems—listed SRCC annual BTU or equivalent kWh output;
  - iii. Wind Electric Systems—total rated kW of all alternators and generators;
  - iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated by:
  - i. equipment costs;
  - ii. installation costs;
  - iii. taxes;
- e. make, model, and serial number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;
- f. name and Louisiana contractor's license number of installer;
- g. copy of the modeled array output report using the PV Watts Solar System Performance Calculator developed by the National Renewable Energy Laboratory and available at the website [www.nrel.gov/rredc/pvwatts](http://www.nrel.gov/rredc/pvwatts). The analysis must be performed using the default PV Watts de-rate factor;
- h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a Solar Pathfinder or Solmetric demonstrating the suitability of the site for installation of a solar energy system.

#### E. Tax Exemption Eligibility of Certain Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection D above. Equipment costs must be in accordance with Subsection D above.

a. All installations must be performed by a contractor duly licensed by and in good standing with the Louisiana State Contractors Licensing Board, the owner of

the residence, or by a person who has received certification by a technical college in the installation of such systems.

b. Two months after the effective date of this Section, all installations must be performed by the contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board with a classification of Solar Energy Equipment and a certificate of training in the design and installation of solar energy systems from an industry recognized training entity, or a Louisiana technical college, or the owner of the residence.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

4. Solar or wind energy systems or components for which tax credits are received are not eligible for a second tax credit if resold.

5. Any solar or wind energy system for which a tax credit is received must remain on the structure to which it was originally attached or on another structure located within Louisiana owned and operated by the individual receiving the credit for a minimum of five years from the date of installation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6014 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

#### Family Impact Statement

The proposed adoption of LAC 61:I.1907, regarding income tax credits for wind or solar energy systems 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.

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., April 28, 2008. A public hearing will be held on April 29, 2008, at 10 a.m. in the

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Income Tax Credits for Wind  
or Solar Energy Systems**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs to the Department of Revenue for the proposed rules include computer system modifications (\$72,900), coding for the Revenue Processing Center (\$2,500), and forms and instruction changes (\$2,500). The Legislature did not specifically appropriate funding to the Department of Revenue to administer these proposed credits. As such, the Department of Revenue will administer these tax credits within existing resources. Implementation of the proposed rules will have no costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

State general fund revenues will decline by unknown amounts in Fiscal Year 2007-2008 and thereafter due to the proposed rules. There is no way to estimate how many individuals and companies might seek tax credits for wind or solar energy systems. Although there is a similar credit at the federal level, it was not effective until the 2006 tax year and no federal statistics are available. However, typical solar energy systems range in costs from \$10,000 to \$40,000, and typical wind energy systems range in cost from \$25,000 to \$35,000. Based on these amounts and the regulation's limitation to the first \$25,000 of costs, the credit provided by this regulation would be \$5,000 to \$12,500 per system. The credit is refundable; so all credits earned each year will be realized against state tax liabilities in the year of purchase or installation. There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed tax credits will effectively reduce the cost of wind or solar energy systems up to \$25,000 in cost by fifty percent; and will in aggregate increase receipts of sellers, distributors, and sellers of these systems proportional to the rate of tax credits granted.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This proposed regulation should have minimal effect on competition or employment in Louisiana because wind and solar energy systems are not currently manufactured in the state. Sellers, distributors, and installers of such wind and solar systems will likely see an increase in their receipts and possibly their employment due to the effective price reduction offered by the proposed credits.

Cynthia Bridges  
Secretary  
0803#038

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Rehabilitation Services**

Individual's Participation in the Cost  
of Vocational Rehabilitation Services  
(LAC 67:VII.115)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend §115, Financial, of its Vocational Rehabilitation Policy Manual. In §115, Financial, the agency redefines financial participation for the provision of hearing aids and places it under a financial needs test. Prior to the Declaration of Emergency effective December 7, 2007, the provision of hearing aids did not require a financial needs test and no financial participation was required as a condition for furnishing this vocational rehabilitation service. This Rule was effected by a Declaration of Emergency published in the December 2007 issue of the Louisiana Register.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 1. General Provisions**

**§115. Financial**

A. - A.1.c.i.(f). ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. - 2. ...

a. Neither a financial needs test, nor a budgetary analysis is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. - ix. ...

x. assistive technology devices and services (except hearing aids);

xi. ...

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. - g. ...

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i - xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

B.3. - C. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:

#### Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule should have no impact on family functioning.

4. What effect will this Rule have on family earnings and family budget? Implementation of this Rule will have no effect on family earnings, however may impact the family's budget as an individual needing hearing aids may be required to contribute to the cost of the purchase of the aid.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Public hearings will be conducted Wednesday, April 23, 2008, beginning at 9 a.m. at following locations: Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street,

Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 6620 Riverside Drive, Suite 101.

Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-219-2225 or 1-800-737-2958, or 1-800-256-1523 for voice and TDD.

Interested persons may submit written comments on the proposed changes until 4:30 p.m. Monday, April 28, 2008, to Roseland Starks, Director, Louisiana Rehabilitation Services at the address below. Copies of the entire text of the revised policy manual may be obtained at Louisiana Rehabilitation Services, 627 North Fourth Street, Second Floor, Baton Rouge, LA, or at each of its eight regional offices, and at the Office of the State Register, 1051 North Third Street, First Floor, Baton Rouge, LA.

Ann Silverburg Williamson  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Individual's Participation in the Cost of Vocational Rehabilitation Services

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this rule change is to amend LAC 67: VIII. Chapter 1 Section 115 to require a financial needs test as a provision for those individuals participating in the Vocational Rehabilitation Program who request assistance with the purchase of hearing aids. Previously, no financial participation was required as a condition for furnishing this vocational rehabilitation service.

The agency anticipates a State General Fund savings of \$932,936 in FY 07/08 and \$1,867,386 in FY 08/09 and FY 09/10. This savings is based on a projected decline in expenditures resulting from a decrease in the number of individuals that will be eligible to receive hearing aids under the rule change. The only cost associated with the rule is \$1,200 (\$255.60 SGF; \$944.40 Federal) for publishing the rule in FY 07/08.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will decrease federal revenue collections for this service by \$3,447,048 in FY 07/08 and \$6,899,686 in FY 08/09 and FY 09/10.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change would reduce the number of consumers that Louisiana Rehabilitation Services would assist in the purchase of hearing aids by approximately 1,200 in FY 07/08 and 2,450 in FY 08/09 and 09/10. Based on the agency's historical information the average cost per hearing aid is approximately \$3,600.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition and employment.

Roseland Starks  
Director  
0803#058

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of State Secretary of State

#### Address Confidentiality Program (LAC 4:XIX.Chapter 1)

Editor's Note: The following Notice of Intent is being repromulgated to correct a procedural error. This Notice of Intent was originally published in the February 2008 issues of the *Louisiana Register* on pages 336-339.

Under the provisions of R.S. 44:52(A)(2), R.S. 36:742, and the Administrative Procedure Act (R.S. 49:950 et seq.), the Secretary of State hereby gives notice of his intent to establish guidelines for the Address Confidentiality Program.

#### Title 4

#### ADMINISTRATION

#### Part XIX. Secretary of State

#### Chapter 1. Address Confidentiality Program

#### §101. Summary of Program

A. The Address Confidentiality Program (ACP) provides relocated victims of abuse, sexual assault, or stalking with a substitute address to use in place of their actual address when they apply for or receive state or local government services (e.g., driver's license, voter registration, public school records, etc.). The goal of the program is to prevent an assailant or potential assailant from finding the location of a victim through the state's public records. The program is not a witness protection program and does not assist participants in obtaining new names, Social Security numbers, or in relocating them to a new residence. The ACP does not provide legal advice to the participant.

B. The ACP acts as the agent of an ACP participant for purposes of service of process and forwards all first-class, certified, or registered mail to the participant.

C. The ACP works with state and local government agencies to ensure compliance of ACP legislation and to facilitate the use of the substitute address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

#### §103. Eligibility Requirements

A. Any person attempting to escape from actual or threatened abuse, sexual assault, or stalking can apply for participation in the ACP. To participate in the program, a victim must meet the following criteria:

1. be a victim of abuse, sexual assault, or stalking;
2. be concerned for the safety of self, children, or household members;
3. be a resident of Louisiana;
4. relocate or plan to relocate to an address unknown to his/her abuser;
5. not have made any public record in new location (i.e., telephone number, utilities, driver's license, etc.);
6. live in a residence that the victim does not own (The ACP cannot protect victims if a house has been purchased in their name.); or
7. be 18 years of age or older:
  - a. be a parent or guardian acting on behalf of a minor; or

b. be a parent or guardian acting on behalf of an incapacitated individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

#### §107. ACP Process

A. A victim of abuse, sexual assault, or stalking moves to a new location (in Louisiana) that is unknown to his/her abuser, and a public record of the new address has not been created (i.e., telephone number, driver's license, utilities, etc.).

B. The victim calls the ACP and is referred to an agency with a certified ACP Application Assistant.

C. The victim meets with an ACP Application Assistant to apply for participation in the ACP.

D. The ACP Application Assistant sends the application to the ACP.

E. The ACP reviews the information on the application and if all conditions have been met, the victim is certified as a program participant.

F. The new participant is assigned an ACP code, and an ACP authorization card is issued for each member of the household.

G. The program participant (and co-participants) can now apply for state and local government services using the substitute address as his/her legal address.

H. The ACP forwards all first-class, certified, and registered mail to the program participant's actual mailing address.

I. The program participant's actual residential address and telephone number are not public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

#### §109. Definition of a Participant and Co-Participant(s)

A. A victim becomes an ACP participant after he/she meets the criteria set forth by the ACP legislation. A co-participant is a household member (i.e., child, spouse, sister, etc.) who lives with the participant and is listed on the ACP application. Household members are not required to be in the ACP; however, it is strongly advised that they be a part of the ACP as it is important for everyone in the household to use the substitute address.

B. The participant and co-participants share the same ACP code and the same substitute address. The participant and co-participants are afforded the same legal protections of the ACP and must agree to abide by the same rules and guidelines of participation in the ACP.

C. Once the participant has completed the proper application form, the secretary of state shall certify the applicant as a program participant which certification shall be valid for four years following the date of filing unless the certification is cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

#### §111. Substitute Address

A. The substitute address assigned to participants has no relationship to participants' actual address and all participants use the same address.

B. The substitute address can be used as the participant's residential, school, and work address. The address should always be used when applying for state and local government services. Private companies are not required to accept the substitute address; however, upon request, many companies use the substitute address. Program participants should also use the ACP address with work associates, friends, and family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:54, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§113. Authorization Card**

A. Each applicant is asked to sign an ACP authorization card and the card of every co-applicant under the age of 18. Co-applicants that are 18 or older, sign their own authorization card. The ACP issues an ACP authorization card for each member of the household. Use of the substitute address may begin when participants receive their ACP authorization card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§115. ACP Code**

A. The ACP code is a specific number assigned to each participant and co-participant and is used to sort and distribute participant mail. Participants and co-participants in the same household share the same ACP code and all mail addressed to a participant should include this number. If the ACP code is not included as part of an address; delivery of a participant's mail can be delayed and in some cases, may be returned to the sender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§117. Mail-Forwarding Service**

A. The ACP provides first-class mail forwarding service to participants using the substitute address. All first-class, certified, and registered mail received at the substitute address is forwarded as first-class mail to the mailing address provided on the application by the participant. The ACP does not forward books, magazines, periodicals, packages, or junk mail. Packages are returned to the sender and junk mail or magazines are discarded. Program participants can expect their mail to be delayed 5 to 10 days as all mail is forwarded from a Baton Rouge address. The ACP does not track or maintain records of any mail received on behalf of the program participants unless the mail is certified or registered.

B. Participants are asked to directly communicate with all their business/personal contacts to inform them of the substitute address they will be using as their mailing address and the address for public record. Participants are asked not to submit a change of address form to the U.S. Postal Service as this can cause confusion for the post office and can delay the participant's mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§119. Voter Registration**

A. A program participant may vote absentee by mail upon meeting the necessary requirements. The participant's substitute address shall be used for registration and voting and the participant's name and physical address shall not be included on any list of registered voters available to the public. A program participant shall not vote during early voting in-person or in-person at the polls on election day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§121. Service of Process**

A. A program participant designates the ACP as an agent for service of process and receipt of mail and legal documents. The ACP receipt of documents constitutes the participant's receipt of the documents. Participants cannot use the program to avoid legal action or to hide from legal responsibilities by refusing to accept mail forwarded by the ACP. Participants are legally responsible for obligations contained in all documents forwarded to them by the ACP. ACP will accelerate delivery (i.e., Fed Ex, UPS, etc.) on legal papers participants are served. All legal delays for service of citation or other process on a program participant shall be extended 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§123. Disclosure of Records**

A. The ACP is prohibited from disclosing the address or telephone number of a program participant except under the following circumstances.

1. The information is requested by a federal, state, or local law enforcement agency for official use only.
2. The information is required by direction of a court order.
3. The information is requested by an agency to verify the participation of a program participant when the verification is for official use only. ACP will give no additional information except to verify participation in the program.

B. The ACP will provide immediate notification of disclosure to program participants when disclosure is made under LAC 4:XIX.123.A.2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

### **§125. Notification to Courts**

A. If at the time of application, a program participant is subject to court order or is involved in a court action related to divorce proceedings, child support, child custody, or child visitation, the ACP shall notify the court that issued the order or the court having jurisdiction over the action, of the certification of the program participant in the ACP and of the substitute address designated by the Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

**§127. State and Local Government Agency Exemption**

A. A state or local government agency may request a waiver from the requirements of the ACP by submitting a waiver request. The waiver is an explanation of why the agency cannot meet its statutory or administrative obligations by using the ACP substitute address. If the ACP accepts the waiver, the agency will only use the participant's actual address for statutory or administrative purposes and will not be public record. Acceptance or denial of an agency's waiver request is not subject to further review.

B. Participants subject to the Sex Offender and Public Protection Registration Programs must disclose their actual residential address as required by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

**§129. Certification**

A. Applicants are certified as participants for four years following the date of certification unless withdrawal or cancellation occurs before the expiration date. Participants can renew their certification if they still consider themselves at risk by completing another application with an ACP Application Assistant within 30 days prior to their expiration date. Upon the receipt and approval of a completed ACP application, the applicant will be on record as a certified program participant and will receive a welcome packet with more detailed information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:53, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

**Family Impact Statement**

The proposed Rule LAC 4:XIX Chapter 1 regarding the Address Confidentiality Program will have a foreseeable impact on the mother and any children as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be a foreseeable effect on:

1. the stability of the family;
2. the functioning of the family;
3. the behavior and personal responsibility of children; and
4. the ability of the family or a local government to perform the function as contained in the proposed Rule.

The proposed Rule LAC 4:XIX Chapter 1 regarding the Address Confidentiality Program does not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the authority and rights of parents regarding the education and supervision of their children; and
2. family earnings and family budget.

Due to procedural problems with the Notice of Intent published on February 20, 2008, another Notice of Intent will be published in the March 20, 2008 issue of the *Louisiana Register*. Interested persons may submit written

comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 29, 2008 at 10 a.m. in the Twelve United Plaza Building (formerly Broadwing Building) Auditorium in the back of the building, 8585 Archives Avenue, 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 department to receive written comments is 4:30 p.m. on Wednesday, April 30, 2008 after the public hearing.

Jay Dardenne  
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Address Confidentiality Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Address Confidentiality Act was enacted by Act 613 of 2006 within the Department of State with the responsibility for implementation of the program being placed within the Department of State. The department anticipated, at the time of the Act's passage, that a minimal initial expenditure increase of \$4,500 would be necessary for implementation of the program, and that recurring expenditures would approximate \$3,000 annually. The program currently provides for the forwarding of mail for approximately 20 program participants, and anticipates as many as 40 participants during Fiscal Year 2008-09. The proposed rule provides for establishment of specific guidelines for the conduct of the program. The department anticipates the employment of an additional person at \$82,900 in salaries and operating expenses to provide for training approximately 250 advocate groups statewide for the purpose of certifying address confidentiality program application assistants. If the proposed rule is implemented as contemplated, and additional funding is not appropriated for this purpose by the legislature, the department would have to absorb the expenditures associated with this effort.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a minimal cost to non-governmental groups to attend training sessions conducted by the Department and assisting applicants with the completing of application forms to participate in the program and the mailing of an applicant's form to the Department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis  
Undersecretary  
0803#029

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Department of Treasury**  
**State Employees' Retirement System**

Instances Where Spousal Consent Is Not Required  
(LAC 58:I.2903)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.2903, which would establish a procedure to allow spouses who have separate property regimes to submit documentation to support an exemption from the spousal consent requirements of LASERS laws.

The proposed Rule complies with and is enabled by R.S. 11:515. No preamble for the proposed Rule amendment has been prepared.

**Title 58**  
**RETIREMENT**

**Part I. State Employees' Retirement**

**Chapter 29. Spousal Consent**

**§ 2903. Instances Where Spousal Consent Is Not Required**

A. - A.3.c. ...

4. the spouses have entered into a matrimonial agreement establishing a regime of separation of property pursuant to La. C.C. Art. 2328 between them which remains in effect at the time of retirement, in which case LASERS needs:

a. a certified copy of the agreement; and

b. a notarized affidavit signed by the spouses affirming the existence of a matrimonial agreement as required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000), LR 34:

**Family Impact Statement**

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 23, 2008, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**

**RULE TITLE: Instances Where Spousal Consent Is Not Required**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule sets up a procedure to allow spouses who have separate property regimes to submit documentation to support an exemption from the spousal consent requirements of LASERS laws. Members living under separate property regimes will be directly affected. No non-governmental groups will be directly affected. The only foreseeable cost to result from the proposed rule amendment is the cost to notarize a LASERS-supplied affidavit, generally no more than ten (\$10.00) dollars.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule change.

Cindy Rougeou  
Executive Director  
0803#030

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury**  
**Teachers' Retirement System**

Monthly Contribution Reports and  
Submission Requirements (LAC 58:III.101)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) proposes to amend the following Notice of Intent LAC 58:III.101 regarding the submission requirements for monthly contribution reports and to implement submission requirements for contributions correction reports. These amendments and additions are all in accordance with authority granted the TRSL Board of Trustees in R.S. 11:873(2). The following provisions shall become effective July 1, 2008.

**Title 58**  
**RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana**

**Chapter 1. General Provisions**

**§101. Mandatory Submission of Monthly Salaries and Contributions Reports, Contributions Correction Reports (Form 4B), and Prior Years Certification/Correction of Member Data**

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Board of Trustees,

by means of file transfer protocol, diskette, or by on-line web based reporting, the amounts of each employee's salary, and the amounts of deductions from the employee's salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol, diskette, and web based reporting formats must be in compliance with criteria established by Teachers' Retirement System of Louisiana as provided in the Employer Procedures Manual. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers with 25 or more employees being reported must submit monthly salaries and contributions reports by file transfer protocol or by diskette.

2. All employers reporting fewer than 25 employees must submit monthly salaries and contributions reports by file transfer protocol, diskette, or Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

**B. Contributions Correction Reports (Form 4B)**

1. All employers must submit Contributions Correction Reports (Form 4B) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

**C. Prior Years Certification/Correction of Member Data.** Member data previously submitted by employers through the Monthly Salaries and Contributions Reports, and Contributions Correction Reports determined to be questionable or inaccurate must be certified as correct or must be corrected by the employer.

1. All employers must submit Prior Year Certifications/Corrections (with certain exceptions as provided for in C2) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system. Data that is to be certified/corrected via the on-line web-based inquiry system are as follows:

- a. full-time rate of pay only correction;
- b. actual earnings and contribution corrections;
- c. service credit;
- d. identified "questionable year" data.

2. Employers who have data that meets Teachers' Retirement System of Louisiana's definition of "Unusual", as defined in Teacher's Retirement System of Louisiana's Employer Procedures Manual, must certify/correct the data by submitting a written statement to Teachers' Retirement System of Louisiana signed by an authorized representative of the employer.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:873(2).

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated, LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007, amended LR 34:

**Family Impact Statement**

The proposed amendment of LAC 58.III.101 concerns the required method of certifying/correcting prior year member data previously submitted. This regulation should not have any known or foreseeable impact on any family as defined

by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may comment on the proposed rule in writing until 4:30 p.m., April 14, 2008, to A. Stuart Cagle, Jr., Deputy Director, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

A. Stuart Cagle, Jr.  
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Monthly Contribution Reports and  
Submission Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs to state or local government units.

The majority of our reporting employers currently use Teachers' Retirement System of Louisiana's secure on-line web Inquiry System to certify/correct prior year member data determined to be questionable or inaccurate. Therefore there will be no impact or change with the implementation for those employers. Twelve (12) of one-hundred eighty-nine (189) reporting employers currently certify/correct prior year member data via hardcopy form which must be sent through the mail or faxed and manually entered in by Teachers' Retirement System staff. These twelve (12) reporting employers currently possess the technology to electronically submit certify/correct prior year member data. The passage of this rule will not create any financial impact. Workload would not be impacted, however paperwork requirements would be reduced as a result of submitting information on-line.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collection of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

No non-governmental groups or persons will be directly affected by this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition or employment.

A. Stuart Cagle, Jr.  
Deputy Director  
0803#046

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Management Assistance Program (LAC 76:V.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules and regulations for participation in the Deer Management Assistance Program.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 1. Wild Quadrupeds

#### §111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within Wildlife Management Area boundaries shall be enrolled in DMAP regardless of size.

c. Each cooperator will be assessed a \$25 enrollment fee and \$.05/acre for participation in the program. DMAP fees must be paid by invoice to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for his approval. This agreement must be completed and signed annually.

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than 4 inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary; however, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

2. Tags

a. A fixed number of special tags will be provided by the Department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer (and antlered deer if special antlered tags are issued) taken shall be tagged, including those taken during archery season, muzzleloader, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless (or an antlered deer if special antlered tags are issued) deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. Antlerless deer harvested on property enrolled in DMAP do not count in the daily or season bag limit for hunters.

e. Special antlered deer tags may be issued on property enrolled in DMAP to increase the antlered deer harvest if a Regional or Deer Program biologist deems it necessary for herd health or habitat management purposes. DMAP tagged antlered deer will not count in the daily or season bag limits.

f. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, hunting license number (transaction number, authorization number, lifetime number or date of birth for under 16 and over 59 years of age) and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the cooperator. Additional information may be requested depending on management goals of the cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

**B. Suspension and cancellation of DMAP Cooperators**

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP. Suspension of the cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator from DMAP. Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:

**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 and Fisheries 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 Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Mr. Scott Durham, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, April 3, 2008.

Patrick C. Morrow  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Deer Management Assistance Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The cost of implementing the proposed rule change to the state, aside from staff time, is the production of special antlered deer tags and additional deer harvest record forms, estimated to cost \$200 per year. The state agency currently has sufficient funds in its budget to implement the proposed rule. No implementation costs or savings to local governmental units are anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state or local governmental units will not be effected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule amendment will provide the Department of Wildlife and Fisheries an additional management tool to better manage deer populations and improve the quality of deer harvested on Deer Management Assistance Program (DMAP) properties. Deer program biologists will be able to provide program cooperators with special antlered deer tags to increase the antlered deer harvest on their property, if deemed necessary for herd health or habitat management purposes. Antlered deer harvested on DMAP properties using special deer tags will not count in daily or season bag limits. The rule will also allow antlerless deer harvested on DMAP property using special antlerless tags to not count against a hunter's daily bag limit.

Cooperators who are provided special antlered deer tags may incur a slight increase in workload and paperwork, since they are required to keep records for all deer harvested on DMAP property. Hunters who hunt on DMAP property and landowners whose property is enrolled in DMAP are anticipated to receive direct benefits in improvement of herd health and the quality of deer harvested over time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment in the public or private sectors is anticipated.

Wynnette Kees  
Fiscal Officer  
0803#054

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Landowner Antlerless Deer Tag Program (LAC 76:V.119)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules and regulations for participation in the Landowner Antlerless Deer Tag Program.

#### Title 76

#### WILDLIFE AND FISHERIES

#### PART V. Wild Quadrupeds and Wild Birds

#### Chapter 1. Wild Quadrupeds

#### §119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag (LADT) Program.

1. Eligibility. The following landowners or lessees are eligible to participate in this program:

a. licensed deer farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF);

b. landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance Deer Management Program and who are dependent upon this commercial crop as a major source of income;

c. landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF;

d. landowners or lessees with 40 or more contiguous acres of forested or marsh land.

#### 2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Regional Office, Deer Program personnel, or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1. Applicant must identify the enrolled property on a Louisiana road atlas that will be kept on file in the Region Office.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for management surveys, investigations of violations and other inspections deemed appropriate by the department.

d. Boundaries of lands enrolled in the LADT program shall be clearly marked and posted with LADT or DMAP signs. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every point onto the property. Signs shall be removed if the land is no longer enrolled in the program. The color of the LADT sign shall be white, with the words LADT and Posted printed on the sign in letters no less than 4 inches. The minimum sign size is 11 1/4" x 11 1/4".

#### 3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested

during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by deer program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the area at large. No additional tags will be issued to the applicant.

c. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

d. Antlerless deer harvested on property enrolled in LADT do not count in the daily or season bag limit for hunters.

#### 4. Records

a. Approved applicants will keep daily records for all deer harvested as required by LDWF personnel. This information along with any unused tags will be submitted to the Regional Office, the Deer Program, or Forest Stewardship Program personnel by March 1. Information will include: date of kill; name of hunter; Social Security number of hunter; hunting license # of hunter, if applicable; sex of animal; landowner antlerless tag number. Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to department personnel upon request. Applicants will be given 48 hours to provide this requested information.

#### 5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:1935 (November 2001), LR 30:2497 (November 2004), LR 34:

#### 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 and Fisheries 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 Statements, the

filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Mr. Scott Durham, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, April 3, 2008.

Patrick C. Morrow  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Landowner Antlerless  
Deer Tag Program**

**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)**

Revenue collections of state or local governmental units will not be effected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule amendment will assist the Department of Wildlife and Fisheries to better management deer populations and improve the quality of deer harvested on properties enrolled in the Landowner Antlerless Deer Tag (LADT) Program. Excluding tagged antlerless deer harvested on LADT program property from the daily bag limit will allow hunters to harvest additional antlerless deer per day and assist property landowners meet their antlerless deer harvest quota. Hunters who hunt on LADT program property and landowners are anticipated to receive direct benefits in the improvement of herd health and the quality of deer harvested over time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment in the public or private sectors.

Wynnette Kees  
Fiscal Officer  
0803#053

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Reef Fish Harvest Regulations  
(LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Section (LAC 76:VII.335) modifying size limits, eliminating a closed commercial season and modifying recreational creel and possession limits for vermilion snapper, and modifying recreational creel limits and seasons and commercial size limits, landing and offloading requirements for red snapper, which are part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority of adoption

of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§335. Reef Fish—Harvest Regulations**

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
1. Red Snapper	2 fish per person per day
2. Queen, mutton, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, schoolmaster, and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate)
4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 1 red grouper per person included in the bag limit
5. Greater amberjack	1 fish per person per day
6. Banded rudderfish and lesser amberjack	5 fish per person per day (in aggregate)
7. Hogfish	5 fish per person per day
8. No person shall possess goliath grouper or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.	

B. - B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess red snapper or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

D. Red Snapper:

1. - 4. ...

5. Requirement for transaction approval code: The owner or operator of a vessel landing red snapper is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. For the purpose of these regulations, the term *landing* means tying a vessel to a dock. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6:00 p.m. until 6:00 a.m., local time. For the purpose of these regulations, the term *offloading* means removing red snapper from a vessel. At-sea or dockside transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. ...

E. Recreational and Commercial Minimum and Maximum Size Limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
8. Scamp	16 inches total length
9. Greater amberjack	28 inches fork length (Recreational) 36 inches fork length (Commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	12 inches total length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

1. *Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

2. *Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that

all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31
b. Gag, Black and Red Grouper	February 15 through March 14

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag, Black and Red Grouper	February 15 through March 14
b. Red Snapper	October 1 of each year through May 31 of the following year

G.3. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:

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 and Fisheries 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 Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Mr. Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or by e-mail to hblanchet@wlf.louisiana.gov, with "March Reef Fish Notice of Intent" in the subject line, no later than 4:30 p.m., Thursday, May 1, 2008.

Patrick C. Morrow  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Reef Fish Harvest Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule change will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Making state regulations consistent with federal regulations for vermilion and red snapper is anticipated to have both positive and negative impacts to directly affected persons and non-governmental groups. The overall magnitude of these impacts are anticipated to be small, since these regulations have already been enacted in federal waters where these species are more often found and harvested. The proposed rule change is intended to allow the Department of Wildlife and Fisheries to work in cooperation with federal and interstate entities for more effective management of natural resources off the coast of Louisiana and to assist with enforcement efforts. Long run benefits would be derived by ensuring healthy fish stocks and a

continuing supply of vermilion and red snapper to harvest in the future.

No additional permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition or employment in the private sector are anticipated to be minimal, since the proposed regulations are already in place in federal waters where most of these species are harvested. No effects on competition or employment in the public sector are anticipated.

Wynette Kees  
Fiscal Officer  
0803#055

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Entertainment Industry Tax Credit Programs—Motion  
Picture Production and Infrastructure Tax Credit Programs  
(LAC 61:I.1601-1607)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. The purpose of the rules is to establish program policies and procedures in the administration of the Motion Picture Incentive program which includes a production and infrastructure portion.

#### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

#### Subchapter A. Louisiana Motion Picture Investor Tax Credit Program

#### §1601. Purpose and Description of Louisiana Motion Picture Investor Tax Credit Program

A. The purpose of this program is to encourage the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital, and television program productions, in order to achieve an independent, self-supporting industry in this state, and to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities.

B. Approvals of applications shall not result in a duplication of tax credits for the same assets. The tax credit granted for qualified expenditures on tangible assets shall not, in the aggregate, exceed the maximum applicable tax credit rate multiplied by the acquisition cost of the asset, as reflected in the first approved application for an investor tax credit.

C. General Description of the Louisiana Motion Picture Investment Tax Credits

1. Louisiana Motion Picture Production Investment Tax Credit. The Louisiana Motion Picture Production Investment Tax Credit is comprised of a percentage of an investor's base investment made and expended in the state in a state-certified production.

2. Payroll Portion of the Motion Picture Production Investment Tax Credit. Each investor whose base investment includes expenditures on payroll for Louisiana residents employed in connection with a state-certified production

shall be allowed an additional credit of 10 percent of such payroll.

3. Louisiana Motion Picture Infrastructure Investment Tax Credit. Additionally, for applications received prior to August 1, 2007, each taxpayer whose base investment totals greater than \$300,000 will be allowed an additional credit of 15 percent of the base investment, for an overall total of 40 percent, made by that taxpayer that is expended on a state-certified infrastructure project.

4. Louisiana Motion Picture Infrastructure Investment Tax Credit. For applications received after August 1, 2007, and until January 1, 2009, each taxpayer whose base investment totals greater than \$300,000 will be allowed a credit of 40 percent of the base investment made by that taxpayer that is expended on a state-certified infrastructure project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

#### §1602. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Allocatee*—an individual or entity that received an allocation of investment tax credits.

*Allocator*—an individual or entity that makes an allocation of investment tax credits.

*Base Investment*—the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, equipment for distribution companies domiciled within Louisiana, transportation equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, and financing costs. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

*Commissioner*—the Commissioner of the Division of Administration.

*Department*—the Louisiana Department of Economic Development, or its successor.

*Developer*—a person in the development of a state-certification infrastructure project.

*Director*—the director of the Louisiana Office of Entertainment Industry Development (the Office) or their designee.

*Division*—the Division of Administration.

*Expended by a State-Certified Production in the State*—for purposes of R.S. 47:6007(B)(1), shall mean:

a. in the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean services procured and performed in the state;

*Louisiana Resident*—residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. *Resident or resident of Louisiana* means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

*Non-Applicable Production Expenditures*—the following expenses are not eligible to earn tax credits:

a. overhead and similar expenses, do not qualify as production expenditures unless the expenditures were incurred in Louisiana and directly used in a state-certified production;

b. the costs of the independent audit as required by law is not an allowable expense;

c. the application fee as required by law is not an allowable expense;

d. post production expenditures for marketing and distribution are not allowable expenses;

e. any amounts that are later reimbursed are not allowable expenses;

f. any costs related to the transfer of tax credits are not allowable expenses;

g. any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production are not allowable expenses.

*Office*—the Office of Entertainment Industry Development.

*Payroll*—includes all salary, wages, and other compensation, including related benefits sourced or apportioned to Louisiana.

*Payroll Expended on Louisiana Residents*, for the purposes of the additional 10 percent tax credit—the gross amount of wages and salaries as reflected on Form W-2 (the amount listed on Item 1 of Form W-2—Wages, Tips and other Compensation) and the amount listed on Form 1099 that is actually paid to a Louisiana resident for services performed in Louisiana.

*Production Expenditures*—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, including without limitation the following:

a. set construction and operation;

b. wardrobes, make-up, accessories, and related services;

c. costs associated with photography and sound synchronization, lighting, and related services and materials;

d. editing and related services;

e. rental of facilities and equipment;

f. leasing of vehicles;

g. costs of food and lodging;

h. digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in Louisiana);

i. total aggregate payroll (limited to the amount of total payroll expended in Louisiana and which is taxable to the recipient in Louisiana. A Louisiana tax return is required to be filed reflecting the amount of compensation paid while the recipient is located in Louisiana. If the recipient is not a Louisiana resident, then a non-resident income tax return should be filed);

j. music, if performed, composed or recorded by a Louisiana musician, or released or published by a Louisiana-domiciled and headquartered company;

k. airfare, if purchased through a Louisiana-based travel agency or travel company;

l. insurance costs or bonding, if purchased through a Louisiana-based agency;

m. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state-certified production;

*Production Facility*—a physical facility that provides the goods and services necessary for completing the major activities of motion picture production.

*Secretary*—the Secretary of the Department of Economic Development.

*State-Certified Infrastructure Project*—an infrastructure project that meets the definition of a production facility and is approved by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration. The term infrastructure project shall not include movie theaters or other commercial exhibition facilities.

*State-Certified Production*—a production approved by the Office of Entertainment Industry Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

*Transferee*—an individual or entity that receives a transfer of investor tax credits.

*Transferor*—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

### **§1603. Certification of Investor Tax Credits**

A. An applicant for the motion picture investor tax credit shall submit an application for initial certification to the Office of Entertainment Industry Development that includes all of the information required by R.S. 47:6007 D(2)(a); and an application fee payable to the Department of Economic Development or the State of Louisiana shall be submitted



with the application determined as provided in R.S. 47:6007 D(2)(b).

B. Preliminary Certification. The office and the department shall issue preliminary certifications of productions and the office, department and the division shall issue preliminary certifications for infrastructure projects. A preliminary certification shall be issued as follows:

1. State-Certified Production. To obtain the preliminary certification from the office and the department for a state-certified production as required by R.S. 47:6007(B)(13), the applicant must submit a written request to the director and the secretary of the department requesting approval of the production as a state-certified production and setting forth the following information:

a. working title of the production which approval is requested. Should the title change, the state-certified production needs to inform the Office as soon as that change is made;

b. name of the requesting production company;

c. name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;

d. approximate beginning and ending date of production in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total production-related costs of production for which approval is requested;

h. estimated total amount of production-related costs to be expended in Louisiana in connection with the production for which approval is requested;

i. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested;

j. a preliminary budget including the estimated Louisiana payroll and estimated in-state investment;

k. for production seeking approval, a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant;

l. list of principal creative elements such as principal cast, producer, and director; and

m. facts sufficient for the office and the department to determine each of the following:

i. that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(6);

ii. that the requesting production company is domiciled and headquartered in Louisiana; and

iii. that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production for which approval is requested.

2. For the initial certification to become valid, the applicant or official representative must sign the initial certification and return an original to the Office.

3. State-Certified Infrastructure Project. To obtain the preliminary certification from the office, the department and

the division for a state-certified infrastructure project as required by R.S. 47:6007(B)(12), the applicant must submit a written request to the director, the secretary of the department and the commissioner of the division requesting approval of the project as a state-certified infrastructure project and setting forth the following information:

a. working title of the infrastructure project for which approval is requested;

b. name of the requesting infrastructure company;

c. name, telephone number, e-mail address and attesting signature of the requesting infrastructure company's contact person;

d. approximate beginning and ending date of construction in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total project-related costs or total costs associated with the infrastructure project for which approval is requested;

k. a preliminary operating budget including the estimated Louisiana payroll and estimated in-state investment;

l. a detailed business plan outlining the exact costs of what is proposed for the project;

m. total number of jobs to be created by the infrastructure project.

4. The office and the department shall issue their written approval of a project as a state-certified infrastructure project or of a production as a state-certified production after receiving a complete application, all supporting documents necessary to make a determination and the application fee with respect to such project or production that complies with these rules. In the alternative, if the office and the department determine that a request for approval of a project as a state-certified infrastructure project or of a production as a state-certified production received from a developer or production company is not in compliance with these rules, after receiving such request, the office and the department shall request in writing from the requesting developer or production company any information necessary in their determination for such request to comply with these rules. Upon receiving all of the requested additional information in writing from the developer or production company, and if the office and the department determine that the request for approval with respect to such project or production complies with these rules, the office and the department shall issue to the requesting developer or production company their written approval of the project as a state-certified infrastructure project or of a production as a state-certified production.

5. For state-certified productions, the initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

C. Certification of Expenditures and Audit Requirements

1. Prior to any certification of the expenditures of a state-certified production or state-certified infrastructure project and the issuance of any investor tax credits, the motion picture production company, with respect to state-certified productions, and the developer, with respect to

state-certified infrastructure projects, shall submit to the Office of Entertainment Industry Development a cost report of production expenditures or infrastructure expenditures audited and certified by an independent certified public accountant as determined by this rule. Either the Department of Economic Development or the Department of Revenue may audit the cost report submitted by the motion picture production company or developer. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report shall at a minimum, meet the following requirements.

a. The auditor auditing the report shall be a certified public accountant licensed in the state of Louisiana and shall be an independent third party, not related to the producer or developer or any known potential investor eligible for tax credits nor shall the CPA be engaged in the active role of obtaining the credits for themselves or their clients from any production they are auditing.

b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g., directors of the production company or developer, or the producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as at the completion of the audit fieldwork.

e. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America.

f. The auditor shall have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the motion picture industry.

2. After receiving a written request from an investor for certification of expenses and upon certification of the expenditures by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration (for infrastructure tax credits), the office shall issue one original tax credit certification letter signed by the director reflecting the investor's name, the dollar amount of investor tax credits earned by the investor pursuant to R.S. 47:6007(C) through the date of such request, the calendar or fiscal year in which the investor tax credits were earned by the investor, the state-certified infrastructure project or the state-certified production with respect to which the investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project, or state-certified production.

3. Any applicant requesting certification of a production or an infrastructure project is required to reimburse the Office of Entertainment Industry Development for any additional audits required in relation to granting the credit.

4. Beginning January 1, 2006, for state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company submits a fee for each additional certification to the Office of Entertainment Industry Development and the Department of Economic Development for the costs of any additional certifications.

D. In the event that an application for initial certification or request for certification of the credits is denied:

1. the department, office and, in the case of infrastructure projects, the division shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

2. whereupon an application or certification is denied, an applicant may appeal that decision to the administrative law judge in accordance with R.S. 49:992 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

#### **§1604. Base Investment Calculation**

A. For purposes of R.S. 47:6007(C)(1), the total base investment shall be calculated by including all amounts expended in the state constituting base investment:

B. For state certified productions, If each such investment constituting a base investment is made within the period beginning 12 calendar months before and ending 12 calendar months after the date as of which the state-certified production for which base investment is being calculated was approved as a state-certified production, unless the production has commenced, in which case the initial certification shall be valid until the production is complete. However, no state-certified production expenditure shall be attributed to more than one production (or in the case of tangible assets built exclusively for a single production, the asset shall only be allowed as an expenditure once regardless of if it is obtained by a company in the development of an infrastructure project.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

#### **§1605. Infrastructure Portion of the Investor Tax Credit**

A. For infrastructure projects, the Department, Office and Division may grant Investor tax credits for multiple purpose immovable and moveable assets as provided by this section.

1. As stated in Subsection A of §1601 and with the intent of Act 456 of the 2007 Regular session as expressed in R.S 6007(D)(1), infrastructure project tax credits are granted to encourage development of a strong industry base for motion picture production. Consistent with this intent and purpose stated in Section 4 of Act 456 of the 2007 Regular session, the department, the office and the division may grant tax credits only for infrastructure projects directly related to the acquisition and construction of a film, video, television or video production or postproduction facility and shall not grant credits for any infrastructure project or investment in assets such as a hotel or lodging facility, golf course, or retail shopping facility or other facility which the department, office and division deem unrelated to the acquisition and construction of a film, video, television, or video production or postproduction facility. However, for

any applicant requesting approval as a state-certified infrastructure project that includes secondary investments, the certification shall include and shall state terms and conditions as provided by Paragraphs 2 and 3 of this Subsection.

2. The department, office and division may determine that real property or fixed assets having uses other than supporting a state of the art production facility may be a necessary component of a state-certified infrastructure project. In instances where applications include such multiple purpose real property or other fixed assets, the department, office and division shall require the applicant to provide assurances that such assets will exclusively support the approved film infrastructure project and that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; and/or a structured release of tax credits.

3. The department, office and division may require assurances of the applicant for a state-certified infrastructure project that moveable assets shall remain in Louisiana and be used in the production of motion pictures or other visual media productions within the state of Louisiana for not less than 80 percent of the asset's useful life. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; and/or a structured release of tax credits.

4. Hotels and lodging facilities are not eligible.

5. Golf courses are not eligible.

6. Retail shopping facilities are not eligible.

7. Any conditions to meet the requirements to this sub-section shall be explicitly stated in the certification issued for the project.

B. For infrastructure applications received prior to August 1, 2007:

1. the applicant shall have 24 months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the 40 percent tax credits earned on expenditures. Infrastructure expenditures incurred after January 1, 2010, are not eligible for tax credits;

2. tax credits on infrastructure projects shall be considered earned in the year in which expenditures were made, provided that a minimum of 20 percent or \$10,000,000 of the total base investment provided for in the initial certification that is unique to film production infrastructure shall be expended before infrastructure tax credits can be earned on expenditures;

3. the payment of tax credits may extend beyond or be made after the year expenditures are made.

C. For infrastructure applications received after August 1, 2007, and before January 1, 2009:

1. the tax credit shall be equal to 40 percent of the base investment expended in this state on projects, which are in excess of \$300,000;

2. the total tax credit allowed shall not exceed \$25,000,000;

3. an infrastructure project shall be approved if it is a film, video, television, or digital production or postproduction facility;

4. if all or portion of an infrastructure project is a facility which may be used for other purposes unrelated to production or postproduction activities, then the project shall be approved only if a determination is made that the multiple-use facility or secondary investments will support and will be necessary to secure production or postproduction activity for the production and postproduction facility and the applicant provides sufficient contractual assurances that:

a. the facility will be used as a production or postproduction facility, or as a support and component thereof, for the useful life of the facility;

b. no tax credits shall be earned on such multiple-use facilities or secondary investments until the production or postproduction facility is complete;

5. construction of the infrastructure project shall begin within six months of the initial certification;

6. 25 percent of the total base investment provided for in the initial certification of an infrastructure project shall be certified as expended before any credits may be earned;

7. no tax credit shall be allowed for expenditures made for any infrastructure project after December 31, 2008, unless 50 percent of the total base investment provided for in the initial certification of the project has been expended prior to that date. The expenditures may be finally certified at a later date;

8. expenditures shall be certified by the department, office and division and credits are not transferable until such certification.

a. For purposes of allowing tax credits against state income tax liability and transferability of the tax credits, the tax credits shall be deemed earned at the time expenditures are made, provided that all requirements of this subsection have been met and after the tax credits have been certified.

b. The department, office and division may require the tax credits to be taken and/or transferred in the period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years.

c. The credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

#### **§1606. Payroll Portion of the Investor Tax Credit**

A. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of ten percent of such payroll. However, if the payroll to any one person exceeds \$1,000,000, this

additional credit shall exclude any salary for that person that exceeds \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

### **§1607. Application of the Motion Picture Investor Tax Credit**

A. Rules of Application. The investor tax credit authorized by R.S. 47:6007(C)(1) may be earned, transferred, allocated, and claimed as follows.

1. Individuals or entities may earn investor tax credits pursuant to R.S. 47:6007(C)(1).

2. The tax credits cannot be applied against a tax or transferred until the expenditures have been certified by the department, office and, in the case of infrastructure projects, the division.

3. Once investor tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee may transfer or allocate the investor tax credits in one or more of the following ways:

a. transfer—by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

b. allocation—if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation, the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement. These terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation.

i. The allocating entity:

(a). may be treated as a "partnership" for federal or state tax purposes; or

(b). may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

4. A state-certified production or a state-certified infrastructure project earns tax credits at the time the qualifying expenditures are made pursuant to these rules. However, credits can not be applied against a tax or transferred until the expenditures are certified by the Department of Economic Development, the Office of Entertainment Industry Development and in the case of infrastructure tax credits, also by the Division of Administration.

5.a. An owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10-year carryforward period.

b. In the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the

end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides otherwise.

6. Any individual or entity shall be allowed to claim the investor tax credit authorized by R.S. 47:6007(C)(1) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

7. An investor tax credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years. However, an investor tax credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c). Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. The date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the investor tax credits are claimed.

8. If the investor tax credits evidenced by a tax credit certification letter are allocated, sold or transferred or allocated as provided herein, then concurrently with the submission of the notification required by R.S. 47:6007(C)(5), the transferor shall submit to the office the original certificate of ownership evidencing the investor tax credits being transferred or allocated. After receiving the original certificate of ownership evidencing the investor tax credits being transferred or allocated, the Office may issue to each transferee or allocatee indicated in the transferor's or allocator's notification a certificate of ownership signed by the director reflecting such transferee's or allocatee's name, the dollar amount of investor tax credits transferred or allocated to the transferee or allocatee, the calendar year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project or state-certified production. If the certificate of ownership that the transferor or allocator submits with its notification of transfer or allocation evidences more investor tax credits than actually transferred or allocated by the transferor or allocator, then the office may also issue a certificate of ownership to the transferor or allocator signed by the director reflecting the transferor's or allocator's name, the transferor's or allocator's remaining investor tax credit balance, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit. In such cases, the office may issue comportsing certificates of ownership to transferees or allocates designated by the

transferor or allocator in writing until such time as the tax credits represented in the transferor's or allocator's original certificate have been exhausted.

9. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office or the transfer notice pursuant to this rule evidencing the dollar amount of the investor tax credits being claimed; provided, however, if a taxpayer is claiming an amount of investor tax credits less than that evidenced by the certificate of ownership, then, concurrently with filing its Louisiana tax return, such taxpayer may request that the office issue to it a certificate of ownership evidencing the amount of investor tax credits to be claimed and a certificate of ownership evidencing the balance of such taxpayer's investor tax credits. After receipt of such request, the office may issue the certificates of ownership signed by the director reflecting, in addition to the amount of investor tax credits, the taxpayer's name, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production.

10. The failure of the office to issue a timely certificate of ownership in accordance with this rule shall not:

- a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;
- b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47: 6007 and these rules; or
- c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

#### **Family Impact Statement**

The proposed Rules 61:I.Chapter 16.Subchapter A, Louisiana Motion Picture Investor Tax Credit Program, should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Christopher Stelly through the close of business on April 9, 2008, at Post Office Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton

Rouge, LA 70802. Comments may also be submitted by email to [dstelly@la.gov](mailto:dstelly@la.gov) or by fax to 225-342-5554. A meeting for the purpose of receiving the presentation of oral comments will be held on April 29, 2008, at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Sherri McConnell  
Director

0803#041

#### **POTPOURRI**

#### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **Annual Emissions Inventory Data Submittals (LAC 33:III.919 and 5107)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with LAC 33:III.919.D and 5107, the Secretary gives notice that the deadline for submittal of the Annual Criteria Pollutant Emissions Inventory Data and Annual Toxic Air Pollutant Emissions Inventory Data, including the discharge report, for calendar year 2007 is extended to May 15, 2008.

The Louisiana Department of Environmental Quality has implemented a project to update and enhance the existing emissions inventory reporting system. Due to delays in providing for necessary system enhancements, the system will not be ready to receive data in time for users to meet all of the requirements associated with the March 31, 2008, reporting deadlines as outlined in LAC 33:III.919 and 5107.

Therefore, the department is extending the deadline for submitting calendar year 2007 emission point level data and the Criteria Pollutant Emissions Certification Statement certifying facility criteria pollutant emission totals for calendar year 2007 emissions from March 31, 2008 to May 15, 2008.

Additionally, the department is extending the deadline for submitting calendar year 2007 toxic air pollutant emissions data and the Toxic Air Pollutant Emissions Certification Statement certifying facility toxic air pollutant emission totals from March 31, 2008 to May 15, 2008. This deadline extension also applies to submittals of the discharge report required by LAC 33:III.5107.B.5.

This change in the submittal schedule for emission inventory data is for reporting of calendar year 2007 data only. Allowing the time extension for facilities to submit emission inventory data will not have a negative impact on data availability. The new system has been designed such that emission inventory data will be readily available for assessment and dissemination.

Again, for calendar year 2007 emissions inventory reporting, the department requires that the emission point level data and the Criteria Pollutant Emissions Certification Statement certifying facility criteria pollutant emission totals and the toxic air pollutant emissions data and the Toxic Air Pollutant Emissions Certification Statement, including the discharge report, certifying facility toxic air pollutant emission totals, be submitted by May 15, 2008.

For more information regarding this notice, you may contact Jennifer Mouton at (225) 219-3488 or Michael Vince at (225) 219-3485.

Herman Robinson, CPM  
Executive Counsel

0803#047

**POTPOURRI**  
**Office of the Governor**  
**Board of Tax Appeals**

Board of Tax Appeals Office Move

The Louisiana Board of Tax Appeals is providing notice that effective March 24, 2008, its offices will be moving and relocating to the following address:

5615 Corporate Boulevard  
Suite 600B  
Baton Rouge, LA 70808

Please have all business, filing requests and other matter before the board forwarded to the above address. The board's telephone number (225-922-0172) will remain the same. For questions or further information, please contact the board's clerk, Marie Williams.

Gray J. Ortego  
Chairman

0803#002

**POTPOURRI**  
**Department of Health and Hospitals**  
**Office of the Secretary**  
**Bureau of Health Services Financing**

Pharmacy Benefits Management Program  
Antihemophilia Drugs Reimbursements

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing published a Notice of Intent for Antihemophilia Drugs Reimbursement in the February 20, 2008 edition of the *Louisiana Register* (Volume 34, Number 2). This Notice of Intent was published with an incorrect Public Hearing date. The Public Hearing for the Pharmacy Benefits Management Program-Antihemophilia Drugs Reimbursement Notice of Intent will be held on Thursday, March 27, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4<sup>th</sup> Street, Baton Rouge, LA.

Alan Levine  
Secretary

0803#080

**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
Energy Corp. of America, Inc.	St Gabriel	L	H H Gueymard A	1	25593 (30)
Marshland Exploration Company	Bourg	L	Up Rb Sua; J W Cole et al	1	222346 (30)
Marshland Exploration Company	Bourg	L	J W Cole et al Swd	1	973214 (29)
Ada Oil Exploration Corp	Wildcat-So La Lk Charles Dist	L	SI 7239	1	165011
R L Bauman	Shreveport	S	Emile Dorian	1	22080
United Production Company, Inc	Valentine	L	Warren Harang et al	1	212865
United Production Company, Inc	Valentine	L	Warren Harang et al	2	212993
United Production Company, Inc	Valentine	L	Warren Harang et al	3	213022
United Production Company, Inc	Valentine	L	Warren Harang et al	4	213222

James H. Welsh  
Commissioner

0803#012

**POTPOURRI**  
**Department of Natural Resources**  
**Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 5 claims in the amount of \$18,928.17 were received for payment during the period February 1, 2008-February 29, 2008.

There were 5 claims paid and 0 claims denied.  
Latitude/Longitude Coordinates of reported underwater obstructions are:

2904.028	9014.904	Lafourche
2905.973	8926.918	Plaquemines
2935.073	8947.510	Plaquemines
2945.966	9023.179	St. Charles
3006.195	8949.215	Orleans

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

0803#032

### POTPOURRI

#### Department of Social Services Office of Community Services

#### 2008-2009 Social Services Block Grant Intended Use Report

The Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2008, and ending June 30, 2009. The proposed SFY 2008-2009 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DSS as the designated state services agency will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2008-SFY 2009 SSBG expenditures for Adoption, Child Protection, Day Care for Children, Family Services, Foster Care/Residential Habilitation Services.

Additionally, and separate and apart from the traditional SSBG funding priorities, the Intended Use Report describes the uses of a Supplemental Appropriation for hurricane relief. These are federal funds from the Department of Defense Act (HR 2863) for states most severely affected and for expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. The use of these supplemental funds has previously been addressed in separate public hearings with funding allocated to the sources named in this document.

For non-supplemental funds, Louisiana, through DSS/OCS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG non-supplemental funding for SFY 2007-2008 are:

A. Adoption (pre-placement to termination of parental rights);

B. Child Protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals);

C. Day Care for Children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect);

D. Family Services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

E. Foster Care/Residential Habilitation Services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for non-supplemental SSBG funded services include:

A. Persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services;

B. Individuals WRI who are recipients of Title IV-E adoption assistance;

C. Recipients of Supplemental Security Income and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. Low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2151 would qualify as income eligible for services;

E. Persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

Post expenditure reports for the SSBG program for SFY 2004-2005 and 2005-2006 are included in the previous year's SSBG Final Intended Use Report for SFY 2007-2008. The report is available for public review on line at: [www.dss.state.la.us](http://www.dss.state.la.us). Free copies are available by telephone request to 225-342-3910 or by writing to

Marketa Garner Gautreau, Assistant Secretary  
Office of Community Services  
Attention: Planning and Accreditation Section  
PO Box 3318  
Baton Rouge, LA 70821.

Interested persons will have the opportunity to provide recommendations on the proposed SFY 2008-2009 SSBG Intended Use Report, at a public hearing scheduled for 10 am, April 22, 2008 at the Department of Social Services, 627 North Fourth Street, First Floor Room 129, Baton Rouge, LA. Written comments should be directed to Marketa Garner

Gautreau at the above address. Comments must be received on or before the close of business Friday, May 2, 2008.

Ann S. Williamson  
Secretary

0803#056



## CUMULATIVE INDEX (Volume 34, Number 3)

Pages	2008	Issue
1 – 212.....		January
213 – 366.....		February
367 – 566.....		March
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 2007—December 2007, 205

### AGRICULTURE AND FORESTRY

#### Agriculture and Environmental Sciences, Office of Seed Commission

Seeds, 99N

#### Agro-Consumer Services

##### Weights and Measures Division

Handbook 130, 408R

#### Horticulture Commission

Landscape architect

Registration exam, 208P, 361P

Retail floristry exam, 361P

### CULTURE, RECREATION AND TOURISM

#### Cultural Development, Office of the

Cultural districts, 100N

### ECONOMIC DEVELOPMENT

#### Boxing and Wrestling Commission

Boxing and wrestling standards, 371ER

#### Business Development, Office of

Entertainment Industries Development

Motion picture tax credit programs, 553P

### EDUCATION

#### Elementary and Secondary Education, Board of

BESE Part I Code of Conduct, 409R

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

Accountability, 104N, 427R, 430R

Bulletin 118—Statewide Assessment, Standards and Practice, 65R, 431R, 481N

Bulletin 121—Students Teaching and Reaching (STAR)

Content Standards Curriculum Framework, 483N

Bulletin 126—Charter Schools, 448N

Bulletin 128—Entrepreneurship Content Standards Curriculum Framework, 469N

Bulletin 741—Louisiana Handbook for School Administrators

General career and technical education, 477N

Bulletin 741—Nonpublic—Louisiana Handbook for Nonpublic School Administrators, 229R

Bulletin 746—Louisiana Standards for State Certification of School Personnel

Algebra I, 478N

Cooperative education, 106N

Foreign language special certificate PK-8, 233R

Practitioner Teacher Program, 479N

Professional level certificates, 233R

ROTC instructor, 432R

Bulletin 904—Guidelines for Submission of a Charter School Proposal, 480N

Bulletin 1794—State Textbook Adoption Policy and Procedure Manual, 64R

#### Student Financial Assistance Commission

##### Student Financial Assistance, Office of

Scholarship Grants Programs, 219ER, 487N

Financial peril prevention, 234R

### ENVIRONMENTAL QUALITY

#### Secretary, Office of the

Ambient air standards

Particulate matter, 433R

Expedited penalty agreement, 377ER

##### Legal Affairs Division

Clean air interstate, 490N

Emissions

Annual inventory data submittals, 559P

Evidentiary hearings on hazardous waste permit applications, 68R

Incorporation by reference-2007, 493N

Permit applications, 107N

RCRA XVI authorization package, 279N

Regulation revisions, 69R

National source tracking system reporting system, 243R

### EXECUTIVE ORDERS

KBB 07-33—Bond Allocation—Industrial Development Board of the Parish of Jefferson Davis, LA, Inc., 1EO

KBB 07-34—2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 2EO

KBB 07-35—2007 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority, 2EO

KBB 07-36—2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 3EO

KBB 07-37—2007 Carry-Forward Bond Allocation—Calcasieu Parish Public Trust Authority, 3EO

## EXECUTIVE ORDERS (continued)

- BJ 08-01—Executive Branch—Ethical Standards, 213EO  
BJ 08-02—Executive Department—Transparency, 213EO  
BJ 08-03—Executive Department—Limited Hiring Freeze, 214EO  
BJ 08-04—Louisiana Recovery Authority, 215EO  
BJ 08-05—Reassignment of Recreational Trails Program, 216EO  
BJ 08-06—Reassignment of Troops to Teachers Program, 216EO  
BJ 08-07—Activity and Permit Consistency with Louisiana's Comprehensive Master Plan for a Sustainable Coast, 216EO  
BJ 08-08—Executive Branch—Green Government, 217EO  
BJ 08-09—Bond Allocation to Louisiana Housing Finance Agency—Amend Executive Order No. KBB 07-34 Concerning Carry-Forward, 367EO  
BJ 08-10—Authorization for Chair of the State Mineral Board to Sign Certain Documents on Governor's Behalf, 367EO  
BJ 08-11—Additional 2007 Carry-Forward Bond Allocation Louisiana Housing Finance Agency, 368EO  
BJ 08-12—Department of Health and Hospitals—Assistance and Support to Metropolitan Human Services District, 369EO

## GOVERNOR

### Administration, Division of

#### Group Benefits, Office of

- EPO and PPO plan of benefits  
Ambulance services, 108N  
Durable medical equipment, 109N  
Genetic testing, 110N  
Medicare, 111N  
PPO plan of benefits  
Physician assistants and registered nurse practitioners, 208P

#### Racing Commission

- Equine veterinary practices, 5ER  
Pick N, 12ER  
Timing of entering next claiming race, 496N

### Capital Area Ground Water Conservation Commission

- Pumpage fees, 435R

### Financial Institutions, Office of

- Banking Development Districts Program, 221ER  
Louisiana Trust Company, 384ER

### Motor Vehicle Commission

- Advertising, 74R

### Recreational and Used Motor Vehicle Commission

- Recreational products trade show, 435R

### Shorthand Reporters, Board of Examiners

- Fees, 434R

### Tax Appeals, Board of

- Office move, 560P

## GOVERNOR'S REPORTS

- Emergency Rule—Pain management clinics licensing standards, 204GR, 204GR

## HEALTH AND HOSPITALS

### Emergency Response Network Board

- Emergency Response Network, 118N, 386ER

### Licensed Professional Counselors Board of Examiners

- General provisions and code of conduct, 499N

### Medical Examiners, Board of

- Athletic trainers, 113N  
Medical professionals/practice, 438R  
Physician assistants licensing, certification, and practice, 243R

### Nursing, Board of

- Continuing education, 440R

### Optometry Examiners, Board of

- Optometry regulations, 115N

### Practical Nurse Examiners, Board of

- Approved fees, 316N, 496N

### Public Health, Office of

- Diseases, Genetic  
Newborn heel stick screening, 442R  
Neonatal screening, 13ER  
Yellow fever prevention and control, 444R

### Environmental Health, Center for

- General provisions, 133N  
Marine/freshwater animal food products, 444R

### Secretary, Office of the

#### Aging and Adult Services, Office of

- Home/Community Based Services Waiver  
Adult day health care, 39ER, 120N  
Direct support professionals wage enhancement, 251R  
Medical Assistance Program, 389ER  
Elderly and disabled adults waiver, 391ER, 517N  
Adult day health care services, 519N  
Direct support professionals wage enhancement, 251R  
Personal care services, long term  
Personal care workers wage enhancement, 253R

#### Citizens with Developmental Disabilities, Office of

- Home/Community Based Services Waivers  
Children's Choice  
Direct support professionals wage enhancement, 250R  
Displaced recipients, termination of services, 388ER  
New opportunities waiver  
Direct support professionals wage enhancement 252R  
Supports waiver  
Support coordination services, 40ER, 171N  
Targeted case management, 40ER, 172N

#### Health Services Financing, Bureau of

- Adult day health care  
Minimum licensing standards, 151N  
Disproportionate share hospital  
Distinct part psychiatric unit expansions, 15ER, 394ER  
Early and Periodic Screening, Diagnosis and Treatment Program  
Dental services reimbursement, 223ER, 521N

## **HEALTH AND HOSPITALS (continued)**

Federally qualified health centers  
Reimbursement methodology  
Adjunct services payment, 16ER, 522N  
Home Health Services  
Extended nursing services, 144N, 224ER  
Hospice payment rates, 441R  
Hospital(s)  
Inpatient  
Disproportionate share hospital, 17ER, 145N  
Non-Rural/Non State  
Children's specialty hospitals psychiatric units, 317N  
Distinct part psychiatric unit expansions, 22ER  
Reimbursement rate increase, 318N  
Supplemental payments, 23ER, 319N  
Medicaid eligibility  
Disability Medicaid Program, 321N, 395ER  
Family Opportunity Act Medicaid Program, 25ER  
Pregnant women, termination of presumptive eligibility, 168N  
Presumptive eligibility for children, 26ER  
Spousal impoverishment, 29ER  
SSI related resources, 27ER  
Transfers of assets, 30ER  
Medical Transportation Program  
Emergency ambulance services, 322N  
Non-emergency ambulance services, 322N  
Mental Health Rehabilitation Program  
Moratorium on mental health rehabilitation providers, 168N, 396ER  
Nursing Facilities  
Evacuation and temporary sheltering costs, 224ER, 323N  
Fair rental value, property tax, insurance incentive payments, 523N  
Minimum licensing standards  
Emergency preparedness, 32ER, 396ER  
Resident personal fund accounts, 325N  
Standards of payment, level of care determination, 393ER, 525N  
Pain management clinics, 35ER, 80R  
Pharmacy Benefits Management Program  
Antihemophilia drugs, 326N, 560P  
Dispensing fee, 87R  
Pregnant Women Extended Services  
Dental services, 441R  
Professional Services Program  
Adult immunizations, 527N  
Physician services  
Adjunct services payment, 528N  
Prosthetics/Orthotics reimbursement, 327N  
Targeted case management  
Nurse Family Partnership Program, 226ER  
**Primary Care and Rural Health, Bureau of**  
Rural hospitals, primary service areas, 89R  
Professional Services Program  
Adult immunizations, 36ER  
Physician services  
Adjunct services payment, 37ER  
Reimbursement methodology, 37ER

Rural health clinics reimbursement  
Adjunct services payment, 38ER, 529N  
School based health centers, 400ER  
**Social Work Examiners, Board of**  
Social work, 246R, 310N  
**Speech and Language and Pathology, Board of Examiners**  
Board meeting dates, 361P  
Statewide human service framework, 136N  
Targeted case management  
Nurse Family Partnership Program, 530N  
Third party liability  
Provider billing and trauma recovery, 169N  
Twelve months continuous eligibility, 253R  
**Veterinary Medicine, Board of**  
Student/Shelters and faculty veterinarian, 497N  
Veterinary practice, 385ER

## **INSURANCE**

### **Commissioner, Office of the**

Premium adjustments for compliance with building codes and damage mitigation/Reg 94, 90R  
Public Fire Protection Grading Review Board  
Regulation 95, 174N

## **LEGISLATION**

### **Senate**

#### **Senate Committee on Commerce, Consumer Protection and International Affairs**

Emergency Rule-Equine veterinary practices health and medication, 360CR

## **NATURAL RESOURCES**

### **Conservation, Office of**

Orphaned oilfield sites, 208P, 560P  
Statewide order 29-B  
Commercial exploration and product waste facilities, 532N  
Waste type 04 disposal requirements, 535N

### **Mineral Resources, Office of**

Mineral resources/wind energy leasing/Bohemia  
Spillways, 254R

### **Secretary, Office of the**

Fisherman's Gear Compensation Fund  
Loran coordinates, 209P, 560P  
Land conservation organizations certification, 177N

## **PUBLIC SAFETY AND CORRECTIONS**

### **Gaming Control Board**

Application and license, 329N

### **Management and Finance, Office of**

Louisiana State Uniform Construction Code, 93R  
International residential code, 330N

**PUBLIC SAFETY AND CORRECTIONS (continued)**

**State Police, Office of**

- Explosive code, 531N
- Hazardous Material Information Development  
Preparedness and Response Act, 331N
- Motor carrier safety and hazardous materials, 332N
- User fees, 94R

**State Uniform Construction Code Council**

- Uniform Construction Code, 41ER, 42ER

**REVENUE**

**Policy Services Division**

- Income and franchise tax, 333N
- Income tax schedule requirements for  
nonresident athletes, 446R
- Payment of taxes by credit/debit cards, 43ER, 185N
- Wind or solar energy system tax credits, 404ER, 537N

**Tax Commission**

- Ad valorem taxation, 45ER

**SOCIAL SERVICES**

**Community Services, Office of**

- Block grant intended use report, 561P
- Louisiana's Emergency Shelter Grants Program 2008  
Anticipated funds availability, 361P
- Refugee Resettlement Program, 186N

**Family Support, Office of**

- Child Care Assistance Program (CCAP)  
Child care provider, 402ER
- Louisiana pathways, 95R
- Provider registration/certification, 187N
- Sliding fee scale, 187N
- Food Stamp Program, 54ER, 335N
- TANF initiatives, 55ER
  - Caseload reduction report, 363P
  - GED Testing Program, 60ER, 276R
  - Language clarifications, 189N
  - Nurse Family Partnership Program, 61ER, 277R

**Rehabilitation Services, Office of**

- Individual's participation in the cost of vocational  
rehabilitation services, 540N
- Policy manual, 403ER

**STATE DEPARTMENT**

**Secretary of State, Office of the**

- Address Confidentiality Program, 336N, 542N

**TREASURY**

**Louisiana State Employees' Retirement System**

- Elections, 446R
- ORP-election to participate, 97R
- Rollover of refunds, 97R
- Spousal consent not required, 545N

**Teachers' Retirement System**

- Monthly contribution reports and submission  
requirements, 545N

**WILDLIFE AND FISHERIES**

**Wildlife and Fisheries Commission**

- Abandoned crab traps, removal, 97R
- Deer Management Assistance Program, 547N
- Emergency cut-off switches, 195N, 363P
- Flotation devices, 196N
- General and wildlife management area hunting,  
339N
- Gill net and grass carp prohibitions, 197N
- King mackerel, 62ER
- Landowner Antlerless Deer Tag Program, 549N
- Marine event permits, 198N
- Oyster season, 227ER
- Physically challenged hunter permit, 353N
- Reef fish, 62ER, 227ER, 550N
- Resident game hunting, 357N
- Shark, large coastal, 63ER
- Snapper, 406ER
- Vessel monitoring system, 199N