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# Emergency Rules

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education at its regular meeting on May 25, 1978, exercised the emergency rule-making provision of the Administrative Procedures Act, R.S. 49:953B, to revise Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, to permit certified elementary teachers of reading to teach remedial reading at the high school level. This revision will appear in the *Policy and Procedure Manual* as Rule 3.01.70v(21). Parish superintendents are now in the process of employing teachers for the 1978-79 school year. There presently exists a scarcity of certified high school teachers in the field of reading and it is felt that the elementary certified teacher has the capability and background to teach remedial reading at that level. This policy change will allow local education agencies to employ certified elementary teachers in order to provide quality education for the children in Louisiana.

James V. Soileau, Director  
Board of Elementary and Secondary Education

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted, effective June 1, 1978, policy 19-347 of the *Medical Assistance Manual*, Chapter XIX, which defines the treatment of home property six months after a Medicaid recipient enters a nursing home.

The policy reads as follows:

19-347 A.(2) Treatment of Home Property of Applicant/Recipient in a Nursing Home.

(a) Home property of a person converted to Supplemental Security Income (SSI) or a person who was receiving Title XIX nursing home vendor payments only in December, 1973 is protected by Office of Family Services (OFS) policy on home property in effect in December, 1973 as long as the provisions of that policy are met and the person continues to meet grandfather provisions. OFS policy as of December, 1973 provides that:

When the client is forced to live away from home, his property shall continue to be considered his home (shall not be considered excess property) if he is keeping it available and intends to use it as his home when his condition permits.

This policy shall apply when the client is forced to live elsewhere because of his need for nursing care or medical care, or had to leave his home temporarily because of natural disaster, such as a flood.

(b) For those individuals whose eligibility for Medical Assistance was or is determined on or after January 1, 1974—that is, those individuals whose eligibility is not protected under the SSI "grandfather" provision noted in (a) above—the SSI policies in effect relative to home property are applicable. That policy now provides that "Short temporary absences from home like trips, visits, and hospitalization do not affect the home exclusion as

long as the individual intends to return home. An absence of more than six months, however, may indicate that the home no longer serves as the principal place of residence if the home is not used by the spouse or dependent relative. For example, in the case of a long medical confinement of indefinite duration the point may be reached where it is unrealistic to say that the absence is only temporary, even though the individual may intend to return home."

Since a long absence (more than six months) "may indicate" that the client will not be able to retain the home as the principal place of residence, and it remains the intent of the client to return home, the home shall be excluded as a resource until a determination is made, based on medical opinion, that there is no possibility that the client's intent can be realized during the remainder of his life. This factor shall be reviewed no less frequently than once annually, and a statement signed by the client's treating physician shall be secured. Suggested statements, which can be prepared for the physician's signature, are as follows:

(1) If the physician is of the opinion that there is no possibility that the client can return to his home, the following is suggested:

It is my opinion that \_\_\_\_\_'s physical or mental condition is such that he will not be able to return to his home during the remainder of his life.

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Date Physician's Signature

(2) If the physician cannot certify that the client will not be able to return to his home, the following is suggested:

I am unable to conclude on the basis of my findings of \_\_\_\_\_'s physical or mental condition that he will not be able to return to his home during the remainder of his life. There continues to be a possibility, given the right conditions, that he will be able to return to his home.

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Date Physician's Signature

(3) If the treating physician will not sign a statement, the case shall be referred to the Medical Social Review Team (MSRT) of the Office of Family Services for the required determination. The referral in the form of a memo directed to the MSRT shall contain current medical information and pertinent social data and the suggested statements as noted in (1) and (2) above. When MSRT renders its decision regarding the status of the return home, the appropriate statement shall be signed and dated by the designated MSRT physician and the memo returned to the local office.

(c) When the physician and/or MSRT certifies that the client will not be able to return to his home, the home shall be declared an excess resource and the client shall have three months to dispose of the property.

An extension to the three month limit is possible in situations where the client makes concrete efforts to sell and/or legally dispose of the property. In these situations, the extension is granted by State Office. The request shall be in the form of a memorandum with a summary of the situation.

It will not be necessary to obtain a physician's and/or MSRT's statement in the following situations:

(1) The client's spouse and/or dependent relative live there; or,

(2) If an SSI eligible has joint ownership of the home; or

(3) The client's equity does not exceed six thousand dollars and a six percent return is received.

In these situations, the home property is excludable as a resource.

(3) Residence Factor of Eligibility.

The applicant for Title XIX benefits meets the eligibility criteria if he is living in Louisiana voluntarily with the intention to remain a resident of Louisiana, and not for a temporary purpose.

A resident of another state who becomes ill while visiting in Louisiana or who is brought to Louisiana for medical treatment is not eligible for Title XIX benefits from Louisiana.

This revision will allow the Medical Assistance Program to fully comply with Federal regulation 42 CFR 448.3. This action shall be taken pursuant to R.S. 49:953B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Services, 755 Riverside North, Baton Rouge, Louisiana.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## Rules

### RULES

#### Department of Commerce Board of Certified Public Accountants

##### Section 77. Certificates.

###### 1. Experience Requirements.

A. Applicants for a Certified Public Accountant (CPA) certificate shall be required to have at least one year of accounting experience, which may be completed before or after sitting for the examination. This accounting experience shall be full-time employment on the regular professional staff of a practicing CPA or PA (Public Accountant) of Louisiana, or a practicing CPA of another state, the District of Columbia or a possession of the United States; or such other accounting experience as, in the opinion of the Board, is equivalent to the foregoing. The Board shall not grant nor issue a CPA certificate to the successful candidate unless and until the experience requirement has been met.

B. In lieu of the above, all governmental and private industry experience is considered on an individual case basis, except that the following approved guidelines have been established for equivalency of experience:

(a) Federal.

(1) General Accounting Office—At least one year at grade GS-9 or higher as a field agent with audit responsibilities.

(2) Internal Revenue Service—At least one year at grade GS-9 or higher as a field agent with income tax responsibilities.

(3) Department of Transportation, Federal Highway Administration—At least one year at grade GS-9 or higher with audit responsibilities.

(4) United States Postal Service, Auditing Department—Attainment of Level 21 and two years experience in performing financial audits.

(b) State of Louisiana.

(1) Louisiana Department of Revenue—At least one year as Revenue Agent IV. Experience as a Revenue Agent I, II and III will be considered on an individual case basis.

(2) Louisiana Public Service Commission, Auditing Division—At least two years in one or more of the following positions: Public Accounts Examiner II, III and IV.

(3) Louisiana State Legislative Auditor—At least one year in one or more of the following positions: Governmental Auditor I through V, Legislative Audit Area Supervisor, Legislative Audit Chief Field Auditor, Legislative Review Auditor, Legislative Audit Chief Review Auditor.

(c) City.

(1) Baton Rouge—At least one year in one or more of the following positions: Auditor 1, 2 and 3.

(d) Teaching experience—Teaching experience at an accredited university or college is acceptable if both of the following requirements are satisfied.

(1) A person must be a full-time teacher of accounting subjects. Full-time is defined as teaching at least nine hours during a regular semester.

(2) The teaching experience must aggregate at least thirty semester hours of accounting subjects which shall include at least three hours of each of the following: Intermediate Accounting I, Intermediate Accounting II, Advanced Accounting, Cost Accounting, Income Tax Accounting, Auditing.

(e) The above are not intended to be all inclusive.

Lydia F. Parek, Executive Director  
Board of Certified Public Accountants

### RULES

#### Department of Commerce Real Estate Commission

Rule 2. Examinations—Examinations shall be held, after due notice thereof, at such time and place to be designated by the Louisiana Real Estate Commission.

A. In order to be permitted to take a license examination, an applicant must obtain an admittance authorization by complying with the provisions of Rules 1 and 3.

B. Examinations shall be taken only on the date and time specified in the admittance authorization.

C. Admittance authorization and photographic evidence of applicant's identity (e.g. driver's license) shall be presented to examination monitor by the applicant before an examination will be administered.

D. Applicants who fail to appear for examination, as specified in their admittance authorization, shall forfeit all fees.

E. Applicants who are disqualified, for any reason, on an examination shall forfeit all fees.

F. Applicants who are disqualified on an examination and/or applicants who fail to appear to take the examination are permitted to reapply provided that they remit new license and examination fees and obtain an admittance authorization.

G. Applicants who fail to pass their initial license examination shall forfeit all fees. However, they are allowed to take a second examination, at the next scheduled examination period only, provided that they remit a new examination fee and obtain an admittance authorization.

H. Applicants who fail to pass their second license examination shall forfeit all fees and their applications shall be returned. Second time examination failures shall not be allowed to reapply for license for a period of not less than six months following the date of their last examination failure.

I. Applicants are permitted to use calculating devices during examinations. Applicants are not allowed to possess or utilize any reference material during examination.

J. Examinations will be administered only at designated examination centers, on the prescribed date and at the prescribed time as shown on admittance authorization, and only after all of the requirements of this section have been met.

\* \* \* \*

**Rule 37. Course Reporting**—Certified real estate schools, with the exception of Louisiana colleges and universities, shall designate their courses as Real Estate I (thirty hour statutory requirement for salesmen), Real Estate II and III (balance of ninety hour statutory requirement for brokers).

A. For each course it conducts, each school shall furnish:

1. The exact location, time and date schedule,
2. A list of all instructors participating in the course and a list of subjects to be covered.

The information required by Section A shall be filed by the school to be received by the Commission at least ten days prior to the date of beginning of a course.

B. Within ten days following the completion of each course conducted, all schools shall furnish:

1. A notarized affidavit containing the names and addresses of those persons satisfactorily completing course(s),
2. The signatures of all participating instructors along with a list of subjects taught by each instructor and the number of hours devoted to said subjects.

Violation of the provisions of this Section by any school (its owners or instructors), or any false certification or other misrepresentation of actual attendance records shall be construed as contempt of the Commission and shall be grounds for immediate revocation of school and/or instructor certification.

Stanley Passman, Executive Director  
Real Estate Commission

## RULES

### Board of Elementary and Secondary Education

#### Rule 3.03.03

The Board adopted the following policy in order to eliminate sex biases and sex stereotypes in vocational-technical education programs:

1. All courses or programs are available to persons of both sexes.
2. Females and males are encouraged to enroll in nontraditional courses, e.g., females enroll in electronics, trade and industrial, or males enroll in such courses as home economics, nursing, shorthand, etc.
3. Students of both sexes are recruited for nontraditional courses or programs.
4. Special courses are not designed solely for males in home economics or any other programs. In some instances, course titles make a difference.
5. No student is denied the opportunity to become a member of or participate in the vocational student organization, for the specific program in which the student is enrolled, based on sex or race.
6. Instructional materials are reviewed for sexism; if sexist language is used, when new materials are developed, sex neutral or sex fair language should be used.
7. Career testing materials are free of bias; (interest inventories).
8. Counseling practices and procedures are void of bias, stereotyping, or discrimination. Special services should be offered which are designed to assure equal access or reduce bias or stereotyping.

#### Rule 3.01.02

This policy replaces present policy in effect.

The Board approved for final adoption *Title IV Fiscal Year 1979 Annual Program Plan*. The Department of the State Register has elected not to publish this plan in accordance with R.S. 49:954.1C. Copies of the plan may be obtained from the Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

#### Rule 3.01.70v(20)

The Board approved for final adoption an amendment to page 42 of Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, to provide that full-time supervisors of school

libraries must hold a master's degree in library science instead of a "master's degree" as now stated. The Board also directed that all persons presently employed as supervisors of school libraries shall be automatically so certified. The Board further stated that this new provision becomes applicable to all new supervisors in the 1978-79 school year.

#### Rule 3.03.05

The Board adopted the following special fee schedule for non-resident students attending the Louisiana Marine and Petroleum Institute in Chauvin, Louisiana as follows:

Master or Mate	\$50.00
Ocean Operator	35.00
Towing Vessel Operator	
International/Inland	35.00
Inland/Western Rivers	35.00
Inland Only	20.00
Western Rivers Only	20.00
Inland and Motorboat Operator	20.00
Able Seaman and Deckhand	20.00
Chief or Assistant Engineer/Mineral & Oil	35.00
Oiler	20.00
Tankerman	10.00

#### Rule 4.02.04 and 4.03.50

The Board adopted a grievance procedure for postsecondary vocational-technical schools and State special schools. Rule 4.02.04 applies to special schools and Rule 4.03.50 applies to vocational-technical schools under the Board's jurisdiction.

### Grievance Procedure for Postsecondary Vocational-Technical Schools and State Special Schools

Part I.

(A) General Provisions.

The principle of due process inherent in our State and Federal Constitutions and laws shall be employed so that equal protection of the law is afforded to all individuals and institutions involved.

The grievance procedure shall be implemented in a fair and impartial manner equitable to all parties. The application of due process is no more than the application of common sense and fair play.

The primary function of our institutions is to educate. Therefore, any grievance procedure that encourages and fosters the conversions of our institutions into judicial forums is self defeating and hence should be avoided whenever possible.

For this reason, informality must be a preliminary step. Formal procedure is not a necessary adjunct to due process. It should be employed only after all other measures have been exhausted.

Satisfactory resolution of a complaint shall be pursued through informal means. If the complaint is not resolved through informal channels, then the complainant may initiate the appropriate grievance procedure through the chain of command within the school.

Discussions, conferences, or hearings pertaining to grievances will be held during the aggrieved party's nonteaching time, if an instructor, or on nonclass time, if a student, unless otherwise agreed upon by both parties.

Any procedures, formal or informal, may be terminated by mutual consent or at any step satisfactory to the grievant.

Grievances related to special education evaluation and placement should be processed according to the specific procedure outlined in the current *Special Education State Plan* or the procedure herein outlined.

Classified employees shall follow Civil Service grievance procedures. The employee shall not interrupt his/her work schedule to present a grievance. A meeting should be arranged that is mutually convenient.

Part II. Definitions of Grievance.

Grievance is defined as follows:

(A) A complaint or disagreement by a staff member and teacher, student, or parent (if applicable) at a postsecondary vocational-technical school or State special school under the

jurisdiction of the State Board of Elementary and Secondary Education alleging:

(a) A violation, misinterpretation, or misapplication of a specific policy or directive of the State Board of Elementary and Secondary Education or the State Department of Education or the special, or vocational technical school.

(b) Discrimination on the basis of national origin, sex, economic status, race, religion, physical or mental handicap, or other exceptionality.

(c) Any other grievance. No distinction is to be made between a complaint or grievance at the informal level of procedure. Upon application for a formal hearing all complaints and disagreements become formal grievances.

### Part III. Postsecondary Vocational-Technical Schools and Special Schools.

Grievance procedure for unclassified staff, students, and parents of students.

#### (A) Informal Procedure.

A sincere attempt shall be made to resolve any grievance by scheduling a meeting between the grievant and the appropriate school personnel.

If the grievance involves discrimination on the basis of sex, race, or handicap, then the grievant shall go to the appropriate coordinator (Title IX, Title VI, Section 504) for an oral discussion of the grievance.

#### Students:

Step I. If the grievance involves a student and instructor/teacher, an oral discussion shall be arranged between the student and instructor/teacher.

Step II. If this procedure offers no solution, then the student shall request and shall receive an appointment with the Director/Superintendent.

Step III. If the grievance is not resolved at this level, then and only then can formal proceedings be initiated.

#### Parents of Students:

All complaints and grievances by a parent shall initiate with the Director/Superintendent.

The Director or Superintendent on grievances presented by a student or a parent, must advise the parties of his/her disposition within five days of the conclusion of the conference.

For both students and parents, this remedy shall be exhausted and only then can formal procedures commence.

#### Instructors/Teachers:

Step I. An instructor/teacher shall go to his/her immediate supervisor to present his/her grievance in an informal manner.

Step II. If this procedure offers no immediate solution, then the grievant is entitled to an appointment with the Director/Superintendent to discuss informally the grievance. The Superintendent or Director shall inform the grievant of his decision within five school days. From this step on, formal procedure shall be in order.

#### (B) Formal Procedure in Vocational-Technical Schools for grievances.

All formal procedures shall be initiated by a written grievance presented to the Director/Superintendent within five school days following the disposition of the last informal conference.

Each formal statement must contain the following:

(a) The statement of the facts.

(b) The specific policy or policies violated or a general statement of grievance that is in contention.

(c) The names and addresses of all parties to be present at the hearing as witnesses or representatives of the aggrieved party. All grievances thus formally initiated must bear the signature of the aggrieved party. No evidence shall be introduced other than evidence relevant to the facts and issues formally presented and contained in the written application for formal hearing.

(d) All formal grievances must be transmitted by the United States Postal Service, certified mail, return receipt requested.

(e) Once a formal grievance has been filed, the institution, the grievant, and the person against whom the grievance has

been filed and all other legal parties involved shall have the right of representation.

(f) All parties, upon mutual agreement may extend the deadlines herein set.

(g) The Superintendent/Director of a particular school may refer the formal application to a grievance committee for hearing and recommendation or, if not applicable, he/she may after the hearing, inform the grievant of his/her findings not later than ten school days after the findings of the institutional hearing committee are submitted. The grievant shall have ten school days after receipt of the written disposition from the Superintendent/Director to appeal the disposition to the State Board of Elementary and Secondary Education. All documents and copies must be forwarded simultaneously to the school director involved and to the State Board of Elementary and Secondary Education through its Executive Director via certified mail.

(h) An appeal hearing shall be held by the State Board within a period not to exceed sixty days from receipt of the appeal. This period can only be extended by mutual consent of the appellant and the State Board of Elementary and Secondary Education

A written disposition of the grievance appeal shall be rendered by the State Board within twenty school days from the date of the appeal hearings unless an extension is agreed to by all parties. The decision of the State Board may be appealed to the courts.

#### Part IV.

(A) Louisiana State Special Schools—Special Provisions for a Grievance Concerning Students or Parents Relating to Evaluation and Educational Placement.

The following steps shall be taken:

Step I. If the student or parent grievant is not satisfied with the resolution of the complaint through the chain of command within the school, inclusive of the Superintendent's/Director's decision, then a formal grievance, in writing, must be presented to the Superintendent/Director.

Step II. A hearing must be arranged by the Superintendent/Director within ten days after receipt of the written grievance. The hearing shall be conducted by the school's duly appointed and approved impartial hearing officer.

Step III. A written disposition of the grievance shall be rendered by the impartial hearing officer within five school days after the hearing.

Step IV. After receipt of the written disposition, the grievant will have ten school days to request a review of the hearing by the State Department of Education before an impartial review officer who will render a written disposition within five school days after the hearing.

Step V. The decision of the review officer may be appealed to the State Board of Elementary and Secondary Education.

Step VI. Decisions made by the State Board of Elementary and Secondary Education may be appealed through the courts.

#### (B) Formal Procedure for Grievances in Special Schools.

Step I. If the grievant is not satisfied with the results of the informal procedure, a written grievance must be presented to the Director/Superintendent within five school days following the informal conference.

The hearing shall be conducted by the school's duly appointed and approved impartial hearing officer or a duly appointed grievance committee. A written disposition of the grievance shall be rendered by the hearing officer or committee within five school days after the hearing.

(a) Each formal statement of a grievance must contain the question(s) at issue, a statement of facts, the specified policy(ies) or general grievance that is in contention, the relief requested, the names and addresses of all parties to be present at the hearing as representatives or witnesses of the aggrieved party(ies). The matters which may be introduced at any step of this grievance procedure shall be those contained in the initial written grievance. All grievances thus presented must bear the signature of the aggrieved party.