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Executive Orders

EXECUTIVE ORDER MJF 97-22

Bond Allocation—Lafayette Economic Development Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 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 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Lafayette Economic Development Authority has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of a manufacturing facility, the Loma Company LLC Project, in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$7,500,000	Lafayette Economic Development Authority	The Loma Company, LLC

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that such bonds are delivered to the initial purchasers thereof on or before July 21, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: 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 21st day of May, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#015

EXECUTIVE ORDER MJF 97-23

Mineral Board Signature Authorization

WHEREAS: the State Mineral Board, created by Act 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 State Mineral 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 State Mineral Board approval; and

WHEREAS: prior to the creation of the State Mineral 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;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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 State Mineral 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 State Mineral Board has approved the transfer or assignment, the chair of the State Mineral Board is authorized and directed to sign the document on behalf of the governor.

SECTION 2: The provisions of this order are 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 29th day May, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#016

EXECUTIVE ORDER MJF 97-24

**Bond Allocation—East Baton Rouge
Mortgage Finance Authority**

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 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 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time homebuyers throughout the Parish of East Baton Rouge in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$18,600,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that such bonds are delivered to the initial purchasers thereof on or before September 4, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: 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 6th day of June, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#090

EXECUTIVE ORDER MJF 97-25

**Bond Allocation—New Orleans
Home Mortgage Authority**

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 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 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the New Orleans Home Mortgage Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time homebuyers throughout the Parish of Orleans in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,664,475	New Orleans Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that

such bonds are delivered to the initial purchasers thereof on or before September 4, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: 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 6th day of June, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#091

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Division of Pesticides and Environmental Programs**

Registration of Pesticides; Certification of Commercial
Applicators; Licensing of Owner-Operators; and
Restrictions on Applications in Schools
(LAC 7:XXIII.13113)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following emergency rule for the implementation of regulations governing standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools.

The commissioner has determined that an imminent peril to the public health, safety, or welfare of Louisiana citizens and school children, in particular, requires the implementation of emergency rules. These stringent regulations governing the qualifications required for pesticide registrations, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in, on or around school buildings and grounds are necessary to protect individuals and the environment from illegal pesticides and to allow immediate response in the case of the improper or careless application of pesticides.

The effective date of these regulations is May 27, 1997. These regulations will remain in effect 120 days or until the final regulations take effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides

§13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner, or on forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which

the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
 - i. the specific name of each active ingredient in the pesticide;
 - ii. the percentage of the active ingredients in the pesticide;
 - iii. the percentage of the inert ingredients in the pesticide;
 - iv. the net contents of each package in which the pesticide will be sold;
 - v. a statement of claims made for the pesticide;
 - vi. directions for the use of the pesticide, including warnings or caution statements.
- d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;
- e. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. such other information as the commissioner may require.

3. The labeling requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in LAC 7:XXIII.13113.A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 23:

Bob Odom
Commissioner

9706#089

DECLARATION OF EMERGENCY

Department of Economic Development Boxing and Wrestling Commission

Deposits; Officials; Agents and
Promotions (LAC 46:XI.Chapters 3 and 5)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Boxing and Wrestling Commission determined a condition of emergency exists regarding the scheduling (date and site selection) of "major events" and commission approval thereof, as provided by state statute, and full disclosure of all promoter and venue information is necessary for a commission decision.

The commission may find it necessary to demand all "monies" relative to boxing venues be placed in escrow in the commission treasury in order to ensure that ring officials are paid and fighters' purses to be placed in escrow, if required.

The commission, therefore, adopts the following emergency rule, effective May 30, 1997. This emergency rule is to remain in effect for a period of 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 3. Professional Boxing

§304. Deposits: Closed Circuit and Pay-Per-View Television Rebroadcasting

All locations rebroadcasting television related events may be required to deposit a maximum of \$1,000, in advance, for expenses and taxes. *Location* in this particular rule means any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the commission to the producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in R.S. 4:67. Sports bars with a 250-person capacity or less will be required to purchase a permit for \$100; sports bars with a 400-person capacity or less will be required to purchase a permit for \$200; over 400-person capacity requires a promoter's license. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in R.S. 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a

location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoter's license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoter's license.

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 Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§314. Prohibited Ring Official Assignments

A ring official domiciled in the state of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, means a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States' possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§316. Hold Harmless and Indemnity Agreement

All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§328. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and or officially authorize and or give approval to any television network, corporation, limited liability company, promoter, matchmaker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major event* in this rule means: any boxing, kick-boxing or wrestling (WCW, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request, disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection are approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, the chairman must call a meeting to approve or reject the request. A quorum, according to state statute, must be present to approve or reject

such requests. An emergency meeting will not be necessary, if the timetable is such, that the request may be discussed at the regular scheduled commission meeting.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. *Monies* in this rule is to mean fighters' purses and ring officials' (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials' pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61D and R.S.4:64

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§335. Compensation of Officials

All officials, including ring doctors, who participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be predetermined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, do not include the commission.

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 Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§353. Penalties and Sanctions

Anyone licensed and/or subject to the authority of the commission who violates any of the rules and regulations of the commission as set forth in Title, Parts, and Chapters shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the state of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§522. Wrestling Event Deposits

Wrestling promoters/producers will be required to deposit, in advance with the commission, \$250 to secure a date for their scheduled event. This amount will be applied to taxes and deputy expenses. Any cancellation of the advanced booking will result in the loss of the deposit and will be deposited in the commission's treasury. If taxes and expenses do not exceed the \$250 deposit, the commission will refund the excess to the promoter/producer. If expenses and taxes exceed the \$250 deposit, the commission will then collect taxes as outlined in R.S. 4:67.

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 Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§523. Wrestling Booking Agent

Repealed (Reserved).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§525. Wrestling Promoters

Repealed (Reserved).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

Mike Cusimano
Chairman

9706#028

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. Readoption of the emergency rule is necessary in order to continue the federally required changes until they are finalized as a rule. The effective date of this emergency rule is June 20, 1997. It will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

Part 100. Responsibilities of the Board of Elementary and Secondary Education

§101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the state board) shall be responsible for the assurance of a free appropriate public education to all exceptional students, ages 3 through 21 years, and at the discretion of the local education agency (LEA) and with parental approval to those students with disabilities who will turn 3 years old during the school year; and shall exercise supervision and control of public elementary and secondary education.

B. The state board shall be directly responsible for the provision of a free appropriate public education to exceptional students, ages 3 through 21 years, who are within the jurisdiction of Special School District Number 1, or in the state board special schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

§102. Issuance of Regulations

The state board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1944(c).

§103. Compliance with Federal Rules

The state board has the responsibility of complying with rules and regulations governing grants for educational purposes from the federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

§104. Approval of Nonpublic Schools

The state board shall approve each participating nonpublic school that provides special education in accordance with standards established by the state board.

§105. Approval of IDEA - Part B State Plan

The state board will review and approve the State Plan described in §330 of these regulations before its submission to the U.S. Department of Education.

§106. Opportunity of Hearing

The state board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100b.401d before the department disapproves any school system application for federal entitlement funds for special education under Chapter 1 S.O.P. or IDEA - Part B.

§107-129. Reserved

§130. State Advisory Council

A. The State Board of Elementary and Secondary Education and the department shall appoint a state advisory council for the education of exceptional students. The membership shall be 11. Procedures shall follow existing state board procedures for appointing such councils.

B. Membership of the council shall, at all times, include at least one person representing each of the following groups:

1. individuals with disabilities;
2. teachers of students with disabilities;
3. teachers of regular students;
4. parents of exceptional children;
5. state and local education officials;
6. special education program administrators;
7. representatives of recipients of special education and related services and their families;

8. representatives of advocate agencies for the disabled, for colleges and universities, and for vocational/technical schools.

C. The Advisory Council shall perform the following:

1. advise the state board of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings;

2. comment publicly on the state annual program plan and rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA - Part B;

3. assist the state in developing and reporting such information and evaluations as may assist the U.S.

commissioner of Education in the performance of responsibilities under Section 618 of IDEA - Part B.

D. The Procedures of the Advisory Council

1. The advisory council shall meet as often as necessary to conduct its business.

2. By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the state board. This report must be made available to the public in a manner consistent with other public reporting requirements under this Part.

3. Official minutes must be kept on all council meetings and shall be made available to the public on request.

4. All Advisory Council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

5. Interpreting and other necessary services must be provided at council meetings for council members or participants.

6. The Advisory Council shall serve without compensation, but the State Department of Education must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

§131-199. Reserved

Part 200. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§201. General Responsibilities and Authorities

The state superintendent of public Elementary and Secondary Education (the superintendent) and the State Department of Education (the department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the state superintendent and the department include the following:

A. approving, in accordance with standards approved by the state board, each public school program that delivers special education;

B. recommending to the state board approval, in accordance with standards approved by the state board, of each participating nonpublic school program that delivers special education;

C. receiving, administering, and directing distribution of federal funds for education of exceptional students, except those received directly by school systems;

D. recovering any funds made available under IDEA-B for services to any student who was determined to be erroneously classified as eligible to be counted.

§202-204. Reserved

§205. Preparation of Annual Budget

The department shall prepare and submit to the state board for review and approval a comprehensive budget for the next fiscal year that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the department, Special School District Number 1, and city/parish school systems to comply fully with all of the requirements established by the regulations for the Implementation of the Exceptional Children's Act (with due regard to federal maintenance of effort, nonsupplanting, comparability, and excess cost requirements).

§206-219. Reserved

§220. Certification of Personnel

The department must develop as needed, Louisiana standards for state certification of school and other program personnel, subject to approval by BESE, for all public and participating nonpublic program staff who provide special education, administrative, ancillary, pupil appraisal and related services to exceptional students (birth through age 21) under Part B and Part H of IDEA.

§221-229. Reserved

§230. Review of Enforcement Recommendations

The state superintendent, after review of the recommendations from the office, submits to the state board at the next regularly scheduled meeting all recommendations of the department to withhold state or federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the *Louisiana Administrative Code*.

§231-239. Reserved

§240. Hearing Officers

The department and each local agency shall maintain a list of qualified hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The department ensures that these hearing officers have successfully completed an inservice training program approved by the department and meet all other criteria established by the department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

§241-250. Reserved

§251. Relationship Between Special Education and Competency-Based Education

§252. Competency-Based Assessment Program

A. No exceptional student shall be automatically excluded from participation in any educational assessment program. Individual exemption from any such assessment program requires formal parental approval and will be reflected in the student's IEP.

B. Individual exemption from any such assessment program will be appropriate for exceptional students who are not following a curriculum based on Louisiana's grade level standards for and who are not pursuing a regular high school diploma.

C. Exceptional students who take part in the testing program shall have available to them certain procedural modifications in the administration of the tests when indicated on the student's IEP.

§253-259. Reserved

§260. Full Educational Opportunity

The department must ensure that all public education programs of the state strive to meet the goal of providing full service to all exceptional students, ages birth through 21 years, by the year 2010.

§261. Arts for Students with Disabilities

The department shall encourage the use of the arts as a teaching tool and the recognition of the importance of artistic and cultural activities in the education of students with disabilities.

§262-269. Reserved

§270. Interagency Agreements

The department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is:

- A. consistent with Part 800 of these regulations;
- B. essential to the achievement of full compliance with these regulations;
- C. designed to achieve or accelerate the achievement of the full educational goal for all exceptional students;
- D. necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state;
- E. necessary to promote the successful transition of youths with disabilities into adult services and agencies.

§271. Approval of Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in an approved cooperative operated by the school system.

§272-274. Reserved

§275. Fiscal Agent

The department shall act as the fiscal agent in disbursing funds under Chapter 1, State Operated Programs (SOP) for Students with Disabilities, including transfers of such funds to city/parish school systems. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education to exceptional students under these regulations [R.S. 17:24.4(D)]. from state-operated programs and state-supported programs.

§276-289. Reserved

§290. Nondiscrimination

The State Department shall comply with the following statutes and regulations:

Subject	Statute	Regulation
Discrimination on basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 U.S.C. 2000d through 2000d-4)	45 CFR Part 80
Discrimination on basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683)	45 CFR Part 86
Discrimination on basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 974) Act 665 of the 1980 La. Legislature (R.S. 46:2251-2256)	45 CFR Part 84
Discrimination on basis of age	The Age Discrimination Act (42 U.S.C. 6101 et seq.)	45 CFR Part 90

§291-299. Reserved

Part 300. Responsibilities and Activities of the Office of Special Educational Services

§301. General Supervision

The Office of Special Educational Services is established within the department to provide general supervision of all

education programs for exceptional students within the state, including all participating nonpublic school programs and all education programs administered by other state or local agencies. *General Supervision* is defined as the responsibility to perform the following:

A. ensure that all necessary state standards for implementation of the act are established;

Comment: Any state standard affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

B. disseminate such standards and revisions to all public and nonpublic agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards;

C. provide technical assistance to all public and nonpublic agencies bound by such standards in their proper implementation;

D. monitor according to written procedures the implementation of state standards in each public and each participating nonpublic agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues;

E. institute a system for complaint management and investigation regarding the implementation of state standards.

§302. Monitoring, Complaint Management and Investigation

A. The office is authorized to implement the monitoring, complaint management and investigatory provisions of these regulations.

B. The office must monitor in accordance with the procedures established in the *SDE Monitoring Procedures*, Bulletin 1922, all public and participating nonpublic schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. The office, through its complaint management procedures, shall:

1. investigate allegations of failure to comply with any provision of these regulations and other applicable state or federal laws, regulations or state standards;

2. conduct hearings when necessary; and

3. issue subpoenas on behalf of the department to require attendance, testimony by witnesses and the production of documentary evidence.

D. The office, in carrying out its investigatory responsibilities, may require school systems and participating nonpublic education agencies to keep certain records, and submit to the office complete and accurate reports at such time and in such form and containing such information as is determined necessary to enable the office to fulfill its responsibilities of ensuring compliance.

§303-328. Reserved

§329. State Plan under the Individuals with Disabilities Education Act

The office shall prepare for submission to the state board the state plans required under IDEA according to applicable federal requirements for such plans.

§330. The State Plan: Public Notice and Participation

A. In the preparation of the State Plan required under IDEA - Part B, the office must perform the following:

1. publish in newspapers of general circulation throughout the state, other media, or both, a summary of the proposed program plan indicating its purpose and scope, its public availability, the timetable for final approval, the procedures for submitting written comments, any policy changes from previous plans, and a list of the times and places of public meetings to be held. Such notice shall occur between 45 and 60 calendar days prior to submission of the program plan to the state board;

2. distribute to any parent organization, child and youth advocacy organization, school board, approved nonpublic school program, public college or university, or affected state agency, operating in Louisiana, which has previously registered with the office, a copy of the proposed plan and a list of the times and places of public meetings to be held. This distribution must occur no less than 30 calendar days prior to submission of the proposed plan to the state board;

3. publish on each of the three days preceding a public meeting a description of the time, place, and purpose of the meeting in newspaper(s) of general circulation in the area of the state in which the meeting will be held;

4. hold a series of open public meetings in which parents and other interested persons throughout the state are afforded a reasonable opportunity to comment on the proposed plan;

5. file in a publicly available location a written or electronic verbatim record of the public meetings and any written comments received;

6. review and consider all public comments which might warrant modification of the plan;

7. attach a summary of the comments made during the public meeting or received by the state board to the proposed final plan submitted to the state board;

8. publicize the approval by the state board of a final plan and the location at which copies of the plan can be obtained by the public;

9. publicize the approval or disapproval by the U.S. Department of Education of the annual plan and the location at which copies of the plan can be obtained by the public.

B. The office must make all reasonable efforts to inform potentially interested parent and child advocacy organizations throughout the state, and all school boards, approved nonpublic school programs, public colleges and universities, and affected state agencies of the requirements of this Subpart and of §488.

C. The office shall maintain a list of each interested group identified as a result of Subsection B above.

§331-339. Reserved

§340. Review and Approval of Annual Applications of School Systems

A. The office must review each annual application for IDEA - Part B funds submitted by a school system, and:

1. provide written notice of whether an application is or is not in substantially approvable form (and if not, the reasons therefore) within 45 days from the receipt of the application;

2. provide formal written approval (or disapproval) within 10 operational days following receipt by the department of an approved grant award document for expenditure of IDEA - Part B funds from the U.S. Department of Education.

B. Applications for federal and/or state funds in periods during which they may be applied for shall be approved or disapproved by the office according to applicable federal or state procedures.

§341. Provisions for FAPE by the Department

When the department does not distribute IDEA - Part B funds to a school system in accordance with §230 and §373.B, the office shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the school system either directly, by contract, or through other arrangements. The department may provide special education and related services in the manner and at the location the department considers appropriate, consistent with the requirements of these regulations.

§342-354. Reserved

§355. Confidentiality of Records

The office must comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable education records.

§356. Notification of Child Identification Effort

Notice of the child identification effort regularly undertaken by the department and school systems must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state.

§357-369. Reserved

§370. Comprehensive System of Personnel Development

In planning, coordinating, implementing, and evaluating the comprehensive system of personnel development (CSPD) required under IDEA, the Office of Special Educational Services is responsible for the following tasks:

A. conduct a comprehensive needs assessment at least once every three years in conjunction with the development of the Special Education Annual Plan to determine supply/demand personnel projections for the subsequent five-year period for qualified special education instructional, leadership, pupil appraisal, related services, and support personnel required to assure a free appropriate public education for all exceptional students (birth through age 21). After the initial comprehensive needs assessment, follow-up assessment in targeted areas of need will be conducted during the ensuing two years to determine changes or corrections in the course of action for the three-year program plan. The comprehensive needs assessment may be conducted more often if deemed appropriate;

B. identify, on the basis of the comprehensive needs assessment, target populations for personnel preparation (preservice) and personnel development (continuing education), and describe procedures to ensure that activities are carried out and the program plan is on schedule;

C. coordinate and facilitate efforts among the department, LEAs, IHEs, professional associations, parent associations, and other support groups and councils, to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities through support of CSPD statewide committee activities, regional CSPD activities, and multi-agency and interdisciplinary collaborative planning;

D. establish, with the approval of BESE, a system for dissemination, statewide, of information on effective practices for the delivery of special educational services, and procedures for replication and/or adoption of effective practices and/or programs.

§371. Preservice Training Agreements

The Office of Special Educational Services shall develop, in concert with colleges and universities within the state, preservice training arrangements necessary to support approved local public and participating nonpublic school systems and service providers in complying with the requirements of IDEA in achieving the goal of full educational opportunity in the least restrictive environment for exceptional students in Louisiana.

§372. Training of Personnel in Participating Nonpublic Schools

The office, for the department, shall provide the opportunity for continuing education (inservice training) of personnel of participating nonpublic schools.

§373. Administration of Funds

A. The office shall ensure the proper receipt and disbursement of all state and federal funds administered by the department specifically for the provision of special education and related services for exceptional students.

B. The office shall not distribute funds to a school system in any fiscal year if the school system:

1. does not submit an annual application that meets the requirements of §487 of these regulations;
2. is unable or unwilling to establish and maintain programs of free appropriate public education;
3. is unable or unwilling to enter into a cooperative agreement with other school systems in order to establish and maintain those programs;
4. has not implemented the provisions of a hearing officer's decision which was adverse to the school system; or
5. has failed to comply with a corrective action plan developed to eliminate compliance deficiencies found through state monitoring, a complaint investigation, or a due process hearing order.

C. An on-site fiscal review and compliance monitoring will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922.

D. The BESE establishes the policy to seek to recover any funds made available under IDEA-B for services to any student who is determined to be erroneously classified as eligible to be counted.

E. Determination of misclassified students shall be accomplished through the verification procedures of the SDE regarding the child count as detailed in §491. In order to verify the accuracy of each count submitted, the office will conduct the following activities:

1. The current child count from each school system will be compared with the previous count. Discrepancies of ± 10 percent in any disability category will be noted.
2. The current child count incidence figures from each school system will be compared with incidence figures from the previous state child count. Discrepancies of ± 2 percent in any disability category will be noted.

3. An on-site child count review will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. If necessary, each system can be monitored for previous years to verify the accuracy of the child count. During fiscal monitoring of each school system, the monitors will randomly select at least 10, but not more than 20, cells from the child count report. For each cell, the school system must provide the student name, date of birth, evaluation report, IEP, class rolls, and any other information that may be necessary to verify the accuracy of the count.

4. Administrative on-site reviews are conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922. Any multidisciplinary evaluation reviewed which are not in compliance with state guidelines, to the extent that it cannot be determined that the student is disabled, will result in the exclusion of that student from the child count.

5. If a student's IEP is monitored during the on-site administrative review process and it is determined that the student is not receiving all the special education and related services specified on the IEP, the student will be excluded from child count.

6. The school system will be afforded an opportunity to present supportive or explanatory documentation to refute OSES and must be formally accepted. If the evidence cannot justify the count, the count will be disallowed.

F. Recovery of Funds for a Misclassified Student. If the school system has received funds based on an erroneous count and the office has documented the extent of the error, the department will reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or request that the school system return such funds. In the event the school system refuses to comply within 10 operational days, these procedures will be followed:

1. The Office of Special Educational Services will submit written documentation of the error in the count to the state superintendent of Education.

2. Within 10 days of this submission, the state superintendent will request the State Board of Elementary and Secondary Education (BESE) to require the school system to repay the funds.

3. BESE has the responsibility to offer an opportunity for a hearing to a school system prior to a determination to withhold funds.

4. Funds recovered by the department and BESE will be handled within the guidelines set forth by OSEP, U.S. Department of Education.

G. Comparison of State National Child Count Data. The office will compare the incidence figures for the state with national figures provided by Office of Special Education and Rehabilitative Services, U.S. Department of Education. Discrepancies of ± 2 percentage points will be analyzed to determine if changes are required in the statewide student evaluation procedures.

§374. Nonbias of Testing and Evaluation Materials

The office, on the behalf of the department, shall, with the approval of the state board, establish procedures to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or sexual bias.

§375-399. Reserved

Part 400. Responsibilities of City and Parish School Boards, Special School District Number 1 and State Board Special Schools

§401. Responsibilities of Public School Systems

A. Each school system shall identify, locate, and evaluate each student suspected to have disabilities (regardless of the severity of the disabilities), birth through 21 years of age, and each student suspected to be gifted or talented, 3 through 21 years of age, residing within its jurisdiction.

B. Each school system is responsible for providing, or causing to be provided, a free appropriate public education to each eligible exceptional student who resides within its jurisdiction except those voluntarily enrolled in a nonpublic school program.

§402. Definitions

A. Free Appropriate Public Education (FAPE)

1. *Appropriate Public Education*—all special education and related services provided each exceptional student which:

a. meet state board standards, including these regulations and all applicable bulletins approved by the state board (e.g., Bulletin 741, Bulletin 746, Bulletin 1508); and

b. are provided in conformity with an IEP at public expense, under public supervision and direction, and without charge, including preschool, elementary school, or secondary school education.

2. *Free*—without charge, including the following:

a. costs for all room, board, and nonmedical care provided when residential educational placement is necessary;

b. transportation costs provided in order to assure access of persons to services necessary to implement a student's IEP. Exceptional students shall be provided, on a comparable basis with that of students who are nonexceptional, an opportunity to receive transportation services funded out of state or local resources;

c. The term *free* does not preclude incidental fees normally charged to nondisabled students or their parents/guardians) as a part of the regular educational program.

3. Nothing in these regulations shall relieve in any way, an insurer, similar third party, or other public state or local agency from an otherwise valid obligation to provide or to pay for services to which an exceptional student is entitled as a client or beneficiary of such third party under state or federal entitlement or laws or under policies or contracts. This does not prohibit the use of insurance payments or private donations for use in the provision of a free appropriate public education.

4. Whatever state, local, federal, and private sources of support are available may be used to provide a free appropriate public education, including joint agreements between agencies for sharing the costs of those services.

B. Jurisdiction is the right of a school system to exercise authority over all students residing within its geographic area and over each student placed by the school system in an educational program within the geographic area of another school system or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the state-operated treatment and care residential facilities.

3. For a state board special school, the geographic area is the boundary of the educational facility.

Comment:

1. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by a school system, this is indicated by using the word "referral." According to these regulations, such a referral culminates in the establishment of responsibility for FAPE for the student by the receiving school system. All transfers of jurisdiction are considered significant changes in placement.

2. If there is a placement of a student in another school system or an approved nonpublic school, the student so placed remains within the jurisdiction of the placing school system. The responsibility for FAPE remains with the placing school system and, in the case of placement in an approved nonpublic facility, also with the state board.

C. Eligible Students

1. Free appropriate public education must be available to all exceptional students reaching the age of 3 years, regardless of when the birthday occurs during the school year. At the discretion of the LEA and with parental approval, FAPE may be provided to an eligible student with disabilities whose third birthday occurs during the school year.

2. An exceptional student remains eligible until reaching age 22 unless such student was terminated to participate in elementary or secondary education as indicated by a state diploma or Certificate of Achievement. An exceptional student whose twenty-second birthday occurs during the course of the regular school year (as defined by the school system), shall be regarded as eligible for the entire school year.

§403. Reserved

§404. Day Care and Adult Services

A. School systems which operate a day care program or activity for nondisabled students may not exclude any person with disabilities and must take into account the need(s) of these persons in determining services to be provided.

B. School systems which operate an adult education program or activity for nondisabled adults may not exclude disabled or other exceptional persons and must take into account the need(s) of these persons in determining services to be provided.

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than 3 Years of Age

School systems may provide special education and early intervention services to infants and toddlers with disabilities who are from birth to 3 years of age. The ratios established in Appendix I, Part B shall be used for those programs serving infants and toddlers with disabilities.

§406 - 409. Reserved

§410. Child Search Definitions

A. *Identified*—a student is suspected of being exceptional and in need of special education and related services as a result of:

1. child search activities as defined in §411;
2. school building level identification activities as defined in §413.

B. *Locate*—determining where an identified student is residing and whether the person with whom the student is residing is one of the following:

1. a natural parent,
2. the legal guardian of the student, or
3. a parent as defined in §959.

Comment: If neither a natural parent nor a legal guardian is located, the school system shall refer to §516.

§411. Child Search Activities

A. Each school system, in accordance with the requirements of this Subpart, shall document that the effort of ongoing identification activities are conducted to identify and locate each student who is under its jurisdiction, suspected of being exceptional, in need of special education and related services, and is one of the following:

1. enrolled in an educational program operated by a school system;
2. enrolled in a nonpublic school program;
3. enrolled in a public or nonpublic preschool or day care program;
4. is out of school, except for students who have graduated or otherwise successfully completed a program as documented by a state diploma or Certificate of Achievement.

B. If, in the process of implementing these regulations, any school system locates a student who is suspected of being in need of treatment, care, or habilitation and rehabilitation, the school system should request that the agency designated by the state to provide such assistance explore this suspected need with the parents.

§412. Responsibilities of the Child Search Coordinator

Each school system shall designate a child search coordinator who shall be responsible for:

1. tracking the progress of referral and evaluation activities required by §411, §413-414, and §430-436 for each student suspected of being exceptional;
2. ensuring that the parent of each student initially identified as suspected of being exceptional and in need of special educational services is provided a copy of all safeguards available to the parents on rights of parents and students at the time of referral for an individual evaluation;
3. activities assigned under IDEA - Part H.

§413. Students in a Regular Education Program

A. A school system shall identify a student as suspected of being exceptional by the School Building Level Committee (SBLC) conducting and documenting results of educational screening, sensory screening, speech and language screening, motor screening, and results of the intervention efforts as defined in the *Pupil Appraisal Handbook*, Bulletin 1508.

B. The SBLC referral to pupil appraisal for an evaluation which determines eligibility for services under IDEA shall be made through the principal or designee for pupil appraisal services and shall include documentation of all screening activities.

C. An immediate referral may be made to pupil appraisal services for an individual evaluation of any student suspected of a severe or low-incidence impairment, or who is of danger to himself or others. Screening activities, such as educational, sensory, and motor screenings, should be completed as part of the evaluation for these students.

D. Pre-evaluation activities as listed in Bulletin 1508, under "Initial Responsibilities" of the evaluation coordinator, must be conducted within 10 days after receipt of the referral by the pupil appraisal office for an individual evaluation.

§414. Students in Nonpublic School Programs

Students enrolled in nonpublic school programs shall be identified according to the procedures noted in §413.A and shall be referred to the school system's child search coordinator.

§415. Students Out of School

Students out of school, including students ages birth through 5 years and students who have left school without completing their public education by obtaining a state diploma or Certificate of Achievement shall be referred to the school system's child search coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP during the evaluation process if they meet the criteria in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five operational days.

§416. Students with a Documented Severe or Low-Incidence Impairment; Students who may be Transferring from Out of State; and Infants and Toddlers with Disabilities

Students who possess a severe or low-incidence impairment documented by a qualified professional; and who may have been receiving special education in another state shall be initially enrolled special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. Students with other documented impairments; and who may have been receiving special education in another state may be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. This enrollment process, from the initial entry into the school system to placement, shall occur within 10 calendar days and will include the following steps:

1. approval by the city/parish school system's supervisor of special education;
2. a review of all available evaluation information by pupil appraisal personnel;
3. the development of an interim IEP in accordance with §440-446; and
4. obtaining formal parental approval for the temporary placement.

The duration of the completion of the evaluation and the interim placement shall not exceed the evaluation time lines specified in §436, with the initial IEP/Placement document developed within 30 calendar days from the date of dissemination of the written evaluation report to the city/parish school system's supervisor of special education.

Any infant or toddler moving to Louisiana who has an Individualized Family Service Plan (IFSP) will be referred to the child search coordinator who will assist the family in accessing family service coordination. The student will be evaluated to determine eligibility for Part H services in Louisiana.

§417. Exceptional Students Transferring from one LEA to Another LEA Within Louisiana

Students who have been receiving special education in one school system in Louisiana and transfers to another school system within Louisiana shall be enrolled in the appropriate special education program in the new school system with the current IEP or the development of a review IEP within five operational days.

Infants and toddlers with disabilities who have an Individualized Family Service Plan (IFSP) and who receive services from a LEA and transfer to another LEA must receive those services from the LEA in which the student resides.

§418. Formal Parental Approval

A. Initial Evaluation. For an initial evaluation the school system must obtain formal parental approval. If the parent denies or fails to give formal approval for the individual evaluation, the school system may seek appropriate legal action.

B. Re-evaluation. Formal parental approval is not required for the re-evaluation of a student currently enrolled in a special education program, but full and effective notice, including a copy of the parents' rights, must be provided to the parents prior to the re-evaluation.

§419-429. Reserved

§430. Pupil Appraisal Personnel

School systems shall regularly employ pupil appraisal personnel to conduct individual evaluations and may, when necessary:

A. use qualified examiners who are available from the Department of Health and Hospitals, the Department of Public Safety and Corrections, the state board special schools, or other public agencies;

B. contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student;

C. use a combination of the approaches listed above;

D. regardless of the approach used for conducting individual evaluations, school systems retain full responsibility. Any failure by an employee or contractor to meet any requirements of this Part constitutes a failure by the school system to comply with these regulations.

§431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and one of the following conditions exists:

1. formal parental approval for the initial evaluation has been requested and received by the school system;

2. a direct request for an individual evaluation of an enrolled student from sources other than the SBLC must be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student is exceptional, an evaluation must be conducted. If the LEA disagrees with the referral source, and does not suspect that the student is exceptional, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent must be provided a copy of all procedural safeguards which include the right to a due process hearing;

3. a final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted;

4. a written request for an individual evaluation has been issued by a hearing officer or the Office of Special Education appeals panel.

B. An individual re-evaluation shall be conducted every three years, or more frequently if conditions warrant, whenever the student is enrolled in special education and one of the following occurs:

1. it is requested in writing by the student's teacher or by the local school system's special education supervisor/director;

2. it is requested in writing by the student's parent(s);

3. a significant change in educational placement of a student is proposed by the school system, the parent, or both;

4. a final written decision has been issued by a court of jurisdiction requiring that an individual re-evaluation be conducted.

C. A school system is not required to conduct a re-evaluation of exceptional students who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an individual evaluation, the school system must consider the individual evaluation in accordance with §504 of these regulations.

E. Transitional needs must be addressed as part of all evaluations occurring after the fourteenth birthday of a student with disabilities.

§432. Reserved

§433. Evaluation Coordination

A. Upon identification of a student suspected of being exceptional, a qualified pupil appraisal staff member shall be designated as evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in Bulletin 1508, including the following:

1. initial responsibilities following receipt of referral;
2. selection of participating disciplines;
3. procedural responsibilities; and
4. mandated time lines.

§434. Evaluation Process

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*, Bulletin 1508.

B. The determination of an exceptionality must be based upon the "Criteria For Eligibility" established in Bulletin 1508.

C. All evaluations shall be conducted according to the following standards:

1. No single procedure may be used as the sole criterion for determining an appropriate educational program for the student. A variety of instruments, procedures, and sources of information shall be used.

2. Tests and other evaluation procedures and materials shall be administered by trained personnel in conformance with the instructions provided by their producer and are as follows:

a. tailored to assess specific areas of educational need;

b. recommended by their producer and validated adequately for the specific purpose(s) for which they are used;

c. appropriate for the age and stage of development of each person to whom they are administered;

d. free of racial, cultural, language, or sex bias. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder;

e. written and administered in the native language or conducted in the mode of communication most familiar to the person being assessed (i.e., nonverbal intellectual assessment of deaf students) unless it can be demonstrated that it is infeasible to do so;

f. selected to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the factor(s) the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills (except in those cases in which those skills are the factors the test purports to measure);

g. selected to ensure that intellectual assessment instruments were standardized using samples which included representatives of the socioeconomic and social heritage of the student being tested, when possible and not merely those which are designed to provide a single general intelligence quotient.

§435. Evaluation Report

A. The written report must be an integrated compilation of the data collected during the evaluation process and include all components stated in Bulletin 1508.

B. The final signed report must accurately represent the conclusion of the members of the multidisciplinary evaluation team. If a participating appraisal person disagrees with the conclusion(s) in the integrated report, that person may submit a separate signed dissenting opinion stating the disagreement, giving supporting data and conclusions prior to the IEP meeting.

C. The report must be written in language that is clear to the individuals who will use it.

D. Any extensions of the individual evaluation time lines must be explained and documented in the evaluation report.

E. The written report must be disseminated to the student's parent with an opportunity for an oral interpretation prior to the initial IEP placement meeting.

§436. Time Lines

A. There shall be no more than 10 operational days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal to the date when the request is made for parental approval to conduct the individual evaluation.

B. Each individual evaluation must be completed and the evaluation report disseminated, within 60 operational days of receipt of parental approval.

C. Extensions of evaluation time lines must be justified as defined in Bulletin 1508.

D. The required triennial re-evaluation must be completed on or before the third-year anniversary date and must include, at a minimum, the core elements as listed in Bulletin 1508.

§437 - 439. Reserved

Individualized Education Program

§440. Initial IEP/Placement Responsibilities

A. Each student initially determined to be exceptional and in need of special education and related services shall be provided these services in accordance with an IEP. Before any action is taken for each student initially determined to be exceptional and in need of special education and related services, school systems shall conduct a meeting or meetings to carefully consider the multisource data collected on the exceptional student in the individual evaluation process which included a full and individual evaluation of the student's educational needs; and must develop the initial written individualized education program (IEP) including the educational placement which meets all the requirements of this Subpart and Bulletin 1530, *The IEP Handbook* and Bulletin 1891, *The Gifted/Talented IEP Handbook*.

B. School systems shall include on each IEP all special educational and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

C. Each initial IEP/Placement document must be completed within 30 calendar days from the date of dissemination of the written evaluation report to the special education supervisor.

D. Responsibility for the development and implementation of each initial IEP rests with the school system's special education supervisor.

E. School systems shall prepare a progress report related to the short-term objectives in the IEP for each exceptional student and must provide it to the parent at the same time as report cards are provided to all students.

F. The IEP shall be developed on the form issued or approved by the department.

G. The school system shall provide a copy of each completed IEP/Placement document to the student's parent(s) signed by the officially designated representative of the school system.

H. At the beginning of each school year, each school system shall have in effect an IEP for every exceptional student who is receiving special education in that school system.

§441. IEP Meeting Participants

For an exceptional student who has been evaluated for the first time, the school system shall ensure that each IEP/Placement meeting includes the following participants:

A. an officially designated representative of the school system, other than the student's teacher, who is qualified to provide or supervise the provision of special education. This person shall also be knowledgeable about the placement options and shall have the authority to commit the school system's resources to implement the IEP;

B. the student's teacher;

C. one or both of the student's parents, subject to §442 and §959;

D. the student, unless deemed otherwise by the parent. If the student does not attend a meeting involving transition planning, the school system shall take other steps to ensure that the student's preferences and interests are considered.

Comment: The school system, following prior notice guidelines in §504 of these regulations, is required to invite each student to participate in his or her IEP meeting if the purpose of the meeting is the consideration of transition services. For all students who are 16 years of age or older, one of the purposes of the meeting will be the planning of transition services, since transition services are a required component of the IEP for these students.

For a student younger than age 16, if transition services are initially discussed at the meeting that does not include the student, the school system must ensure that before a decision about transition services for the student is made, another IEP meeting is conducted for that purpose, and the student is invited to attend, again following prior notice guidelines in §504 of these regulations;

E. other individuals at the discretion of the parent or school system;

F. the evaluation coordinator, or a member of the evaluation team which evaluated the student, unless some other person is present at the meeting who is knowledgeable about the evaluation procedures used with that student and is familiar with the results of that particular evaluation;

G. for school systems planning transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school system shall take other steps to obtain the participation of the other agency in the planning of any transition services.

Comment:

1. In deciding which teacher will participate in meetings on a student's individualized education program, the school system may wish to consider the following possibilities:

a. For an exceptional student who is receiving special education, the "teacher" could be the student's special education teacher. If the student's exceptionality is a speech impairment, the "teacher" could be the speech-hearing/language specialist.

b. For an exceptional student who is being considered for placement in special education, the "teacher" could be the student's regular teacher, a teacher qualified to provide education in the type of program in which the student may be placed, or both.

c. If the student is not in school or has more than one teacher, the school system shall designate which teacher(s) will participate in the meeting.

2. Either the teacher or the school system's representative should be qualified in the area of the student's exceptionality.

§442. Parent Participation

A. School systems shall take steps to ensure that one or both of the parents of the exceptional student are present at each IEP meeting. School systems shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and schedule the meeting at a mutually agreed upon time and place.

This written contact must indicate the purpose, time, and location of the meeting, and who will be in attendance.

Comment: If a purpose of the meeting is the consideration of transition services for a student the notice must also: 1) indicate this purpose; 2) indicate that the school system will invite the student; and 3) identify any other agency that will be invited to send a representative.

B. If parent(s) do not attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these regulations, other methods shall be used by the school system to ensure parental participation. These other methods include making individual or conference telephone calls, rescheduling the meeting, sending

correspondence summarizing the meeting, and requesting parental suggestions.

C. When the parent does not attend the IEP/Placement meeting, the meeting may be conducted without the parent in attendance providing that:

1. another method for parental participation is used and documented;
2. the school system has documented attempts to arrange a mutually agreed on time and place, such as:
 - a. detailed records of telephone calls made or attempted and the results of those calls;
 - b. copies of correspondence sent to the parents and any responses received;
 - c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The school system shall take whatever action is necessary to ensure that the parent(s) understand(s) the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

§443. Parental Approval of Placement

A. Each school system shall obtain formal parental approval of the educational placement decisions prior to providing initial special education and related services. The IEP will be considered in effect after the parent(s) indicate formal written approval by signing the IEP/Placement document.

B. Implementation of educational placement shall begin as soon as possible but no later than 10 calendar days following receipt by the school system of formal parental approval.

C. If the parent(s) withhold formal written approval of the educational placement, the school system parish supervisor shall within 10 calendar days either:

1. recommend a modified educational placement to which the parent(s) will provide approval; or
2. indicate to the parent(s) in writing that no placement modification will be made (in which case the student shall be maintained in the present placement or be offered placement in the school system with approval of parent(s) until the matter is resolved).

D. The parent(s) may request a hearing in accordance with §507 of these regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

E. If the school system wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the school system may appeal to the appropriate state court within the time prescribed by state law.

§444. IEP/Placement Content and Format

A. Each completed IEP shall contain the following instructional components:

1. a general overview of the student's needs; and specific current performance in the curriculum areas in which special education is recommended;

Comment: Beginning no later than age 16 (and at a younger age, if determined appropriate) the IEP must include a statement of needed transition services which are instruction, community experiences, development of employment and other post school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation; and each participating agency's responsibilities and/or linkages before the student leaves the school

setting. If the IEP Committee determines that services are not needed in one or more of the above noted areas, the IEP must include a statement to that effect and the basis upon which the determination was made. When determining if transition services should begin at a younger age, the LEA must consider students at risk for dropping out, students with severe disabilities, and students who may need more than one or two years of transition services.

2. annual educational performance goals for the student;
3. short-term objectives that describe either measurable sequential steps or major component parts of the goals;
4. appropriate objective criteria and evaluation procedures and schedules for determining whether the short-term objectives and annual goals are being achieved;
5. the identification of those types of persons/agencies responsible for the implementation of the IEP/Placement.

B. Each completed IEP shall contain the following program/services components:

1. the identification of the IEP/Placement participants as required in §441;
2. the long-term educational goal and description of the educational program, indicating whether the student shall address the regular education competencies or an approved alternative curriculum;
3. the extent to which the student will be able to participate in regular education classes and activities;
4. the screening date(s) and criterion/criteria by which the student will be screened to determine extended school year program (ESYP) eligibility;
5. the type of physical education program to be provided as indicated in §445.C;
6. a description of special education and related services needs and the date for initiation of each type of service and the anticipated duration of each. When a related service is included, the frequency (range of time per session and the number of sessions per week) and whether the service will be individual or group shall be indicated;
7. assistive technology devices or assistive technology services, or both, as those terms are defined in the 900 Subsection of these regulations are made available to a student with a disability if required as a part of the student's special education, related service needs, or needs under supplementary aids and services.

Comment: Items 2-5 of Part B not applicable for gifted and talented.

§445. Least Restrictive Environment Assurances and Considerations

A. Each completed IEP shall contain the following placement components:

1. a description of the specific educational environment in which the student is to be placed for the first year (or partial year) of the IEP and the reasons that it is the least restrictive environment possible. In considering the educational placement of each exceptional student, the least restrictive educational environment will be a placement, whether in existence or not which can appropriately meet the student's individual educational needs, including necessary resources.

2. If the placement decision is not instruction in regular class/setting, a description must be provided which includes evidence of specific constraints that prohibit accomplishment of IEP goals and objectives in the regular classroom. This evidence should document that:

- a. the student did/will not benefit from being in a regular class/setting;

b. removing the student from regular class/setting results in improved educational opportunities; or

c. necessary services provided in a separate class/setting cannot be provided in a less restrictive environment.

3. In addition, the following noted assurances must be provided:

a. the placement is in the school which the student would attend if not exceptional unless the IEP of the student requires some other arrangement. If the placement is not in the school the student would normally attend, the placement is as close as possible to the student's home.

b. the school and the class are chronologically age appropriate for the student. No student shall be placed in a setting which violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. the school/setting selected is accessible to the student for all school activities.

d. the classroom is comparable to and integrated with regular classes.

Comment: Any deviation from these assurances must be documented and justified on the IEP.

In selecting an alternative setting, the school system shall consider any potential harmful effect on the exceptional student or the quality of services needed.

4. The educational placement of deaf and (hard-of-hearing) students will be determined primarily by the provision of a free appropriate public education (FAPE) and the consideration of the Least Restrictive Environment (LRE) will be of secondary consideration.

a. Full consideration of the unique needs of a deaf and hard-of-hearing student will ensure an appropriate education as required by the Individuals with Disabilities Education Act (IDEA) are met.

b. Factors that will be considered in developing an IEP for a deaf or hard-of-hearing student are:

i. communication needs and the student's and family's preferred mode of communication;

ii. linguistic needs;

iii. severity of hearing loss and potential for using residual hearing;

iv. academic level;

v. social, emotional, and cultural needs including opportunities for peer interaction and communication;

vi. consideration of curriculum content and method of curriculum delivery.

B. For each educational placement, the school system shall ensure that:

1. it is determined at least annually;

2. it is based on an IEP/Placement document;

3. exceptional students are educated with students who are not exceptional including students in public and private institutions or other care facilities served with IDEA funds, to the maximum extent appropriate. In making this decision, the following four areas must be considered:

a. physical integration—the student will share the same facilities with nondisabled students;

b. social integration—the student will participate in co-curricular and extra-curricular activities with nondisabled students;

c. academic integration—the student will participate in regular classroom activities; and

d. community integration—the student will participate in activities out in the community;

Comment: Communication and related needs of a student with disabilities must be considered when determining the LRE for that student.

4. special class, separate schooling, or other removal of exceptional students from the regular educational environment occurs only when the nature or intensity of the individual's needs are such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily;

Comment: Reasons for selecting a more restrictive environment may not include administrative convenience, availability of related services, or special equipment.

5. the special education program in which each educational placement is made, including day or residential nonpublic schools, meets the standards of the state board.

C. Physical education services in accordance with the IEP/Placement document, must be provided to students with disabilities in the regular physical education program or the adapted physical education program as specified in §904.

D. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/Placement document for each student with disabilities. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student):

1. instruction in regular classes, including:

a. supplemental aides and services to the student; and/or

b. special education instruction;

2. instruction in special classes, all or part of the day;

3. special school, all or part of the day;

4. homebound;

5. instruction in hospitals and institutions.

Comment: Instruction may take place in other settings such as the community and job sites.

E. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/Placement document for each student with disabilities (birth through age 5). At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

settings for students 3 through 5, including but not limited to:

1. school/center—head start, high risk 4-year-old programs, private child care, public preschool classroom, Chapter I classroom, and kindergarten;

2. itinerant/homebased—child's home, caregiver's home, itinerant to head start, child care settings, kindergarten, high risk 4-year-old programs, and Chapter I classrooms;

3. combination parent/child intervention—any intervention with the parent may be combined with any of the above in 1 and 2 and will be considered a parent/child intervention setting.

Comment:

1. Students who are 3 through 5 years of age or are eligible for Part B services according to the LEA's policy on age of eligibility and who identified with speech impairments only are entitled to be served in any of the above preschool settings. The setting for a student with

speech impairments only must be determined by the needs of the student; the student may need communication intervention in settings with other students to meet his or her needs.

2. The school system must make available center-based settings comparable in time to that of kindergarten age students if the student with a disability is kindergarten age. The pupil/teacher ratio established in Appendix I, Part B is used. The teacher providing the service must be certified in noncategorical preschool or in the area of exceptionality served if the class is categorical. The frequency and intensity of services is flexible and dependent upon the needs of the individual student and family.

Settings for infants and toddlers birth to 3 years old include:

1. school/center settings—private child care, public and private early intervention programs, and hospital;

2. itinerant/homebased training—child's home, child care (itinerant to any setting not considered the child's residence);

3. combination parent/child intervention—any intervention with the parent may be combined with any of the above in Paragraphs 1 and 2 and will be considered a parent/child setting. For infants and toddlers, it is expected that most interventions will involve the family directly or indirectly.

Comment: Services to infants and toddlers with disabilities must be provided in the natural environments in which the child would be if he/she did not have a disability. The persons providing the service must be certified, licensed or credentialed in the area of the service being delivered.

F. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is gifted or talented. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. regular classroom with supplemental aids/services;
2. resource with regular classroom;
3. self-contained; and
4. preschool.

G. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is deaf or hard of hearing. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. homebound or hospital instruction;
2. special school, all or part of the day;
3. instruction in special classes, all or part of the day;
4. special education instruction in regular classes

including:

a. service to or consultation with the regular classroom teacher; and/or

b. services to exceptional students within the regular classroom.

H. The least restrictive environment rules may not be waived by any party, including the parent(s).

I. If there is evidence that a school system or any participating agency makes placements that are not consistent with these regulations, the office shall:

1. review the school system's or participating agency's justification for its action; and
2. shall assist in developing and implementing the required corrective action.

§446. Nonacademic Setting Requirements

A. Nonacademic and extracurricular services and activities (including counseling, recreational athletics, intramural and interscholastic athletics, transportation, health services, and clubs sponsored by the school system) must be offered in a way that allows equal opportunity for each exceptional student to participate in services and activities.

B. Nonacademic and extracurricular services, meals, and recess periods must be provided in the most inclusive setting appropriate to the needs of the student.

§447. Duration of Educational Placement Rules

A. School systems shall provide special education and related services to students with disabilities in accordance with an IEP for no less than the normal 180-day school cycle. Extended school year programming (ESYP) is the provision of educational and related services to students with disabilities in excess of the 180-day school year.

B. School systems shall provide educational and related services in excess of 180 school days to students with disabilities when these students are determined to be in need of or eligible for such services. Student eligibility is to be determined in accordance with extended school year program eligibility criteria requirements in Bulletin 1870, Determining Eligibility for Extended School Year Programs.

C. The student's extended school year program is to be designed according to the standards in Bulletin 1871, Program Standards for Extended School Year Services. ESY IEP participants, in determining the length and type of an extended school year program, shall not be bound or limited by any predetermined program or length. The type and length of the extended school year program shall be determined on an individual basis for each student. A program ranging anywhere from 181 up to 240 days shall be available when appropriate.

§448. Hospital/Homebound Placement Rules

The placement of an exceptional student, excluding students whose only exceptionality is hospital/homebound, by a school system in a program of homebound or hospital instruction may be proposed only if one of the following exists:

A. The exceptional student possesses a physical impairment or illness which directly (or because of treatment required) precludes the student's movement from a hospital or home environment to the general educational environment.

B. Consistent with the requirements of these regulations, the student has been determined to be emotionally/behavior disordered and either:

1. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report filed with the office that the student is admitted to a full-time inpatient program of care and treatment in a hospital certified or licensed by the state of Louisiana and that continued participation in the inpatient program is necessary to the proper care and treatment of the student; or

2. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report submitted to the school system and filed with the office that the student's current educational placement is not appropriate and that there is a need for the student to be placed at home

where he will be provided a program of continuous care and treatment. Upon the receipt of this report the school system shall:

- a. conduct a formal re-evaluation which specifically addresses the behavior exhibited by the student;
- b. conduct a review IEP/Placement meeting;
- c. write and implement a behavior plan which addresses the specific behaviors preventing the student from attending school;
- d. establish an approximate date for the student to return to school and measurable criteria which when achieved would allow the student to return to school on or before the established date;
- e. student progress towards meeting the behavior goals and objectives will be maintained by the teacher through data checklists and progress reports;
- f. the behavior goals and objectives will be reviewed during each grading period to determine if they are still appropriate and attainable by the student.

C. A student who is awaiting approval for placement in a residential facility and for whom a school-based interim program has been unsuccessfully implemented because of the severity of the disability or threat of danger to self or others.

D. An exceptional student is detained by court order in a juvenile detention facility.

E. An exceptional student is undergoing disciplinary action. Time limits are subject to the provisions of §459.

§449. IEP/Placement Meeting(s) for Exceptional Students in Other School Systems or in Participating Nonpublic Schools

A. Before a school system places, refers, or provides services to an exceptional student in another school system or in a participating nonpublic school, the school system shall initiate and conduct a meeting to develop an IEP for the student in accordance with these regulations. In preparation for this IEP/Placement meeting, the school system shall perform the following:

1. apply to SSD#1 for approval of placement out of the geographic attendance area of the school system or for a transfer of jurisdiction in accordance with §451.B unless the placement is in an approved cooperative operated by the school system;
2. discuss with an authorized representative of the receiving school system or the approved nonpublic school:
 - a. the student's eligibility for admission;
 - b. the education records necessary to determine eligibility for admission;
 - c. the availability of services; and
 - d. the likelihood of the student being accepted by the system if the IEP/Placement meeting resulted in such a recommendation;
3. for placement consideration at or referral to a state board special school, the proposed educational placement and supporting information must be forwarded to both SSD#1 for its review and approval in accordance with §271 and to the appropriate state board special school for its review and agreement.

B. The school system shall ensure that a representative of the participating nonpublic school or the other school system attends the IEP/Placement meeting. If the representative cannot attend, the school system shall use other methods to ensure participation by the nonpublic school or other school system, including individual or conference telephone calls.

§450. Direct Service Rules

School systems must provide direct services themselves or through approved cooperatives in the alternative setting needed by an exceptional student if:

1. there are sufficient numbers of such exceptional students who need similar alternative special educational settings, who are within a three-year chronological age span, and who are under the jurisdiction of the school system;
2. such direct services are consistent with these regulations which have given particular attention to LRE rules.

§451. Alternative to Direct Services

A. An exceptional student may be placed in an approved public or nonpublic day or residential school program within the geographic area of the school system only if the direct service provisions of §450 do not require the establishment of instructional programs by the school system directly or through approved cooperatives with other school systems.

B. School systems must apply to the department when a student is referred to or is to be placed in an approved public or nonpublic day or residential school outside the geographic area of the school system, unless the placement is in an approved cooperative operated by school systems.

1. In determining whether to approve a request for referral or placement in an approved public or nonpublic day or residential school program located outside the geographic area of the school system but within the state, the department will consider the following:

- a. the short-term and long-term educational needs of the student;
- b. the alternative educational placements available within the school system or through a cooperative agreement;
- c. the potential for creating a new alternative educational placement within the school system or by cooperative agreement which would be less restrictive than the proposed placement; and
- d. the proximity of the proposed placement to the residence of the student (e.g., greater metropolitan area).

2. In determining whether to approve a request for referral or for placement in an approved public or nonpublic day or residential school program located outside the state, the department, in addition to considerations listed above, must also consider the ability of the proposed educational program and facility to meet the minimum standards for special schools of Louisiana. In this determination:

- a. the nonpublic school must be approved by the SEA of the state in which it is located;
- b. an on-site visit by department personnel must be conducted prior to placement;
- c. the state in which the facility is located must have an approved annual plan for implementation of IDEA - Part B;

d. the public or nonpublic school must provide necessary data to establish comparability of educational programs to similar programs operated in Louisiana.

Comment:

1. The provisions of R.S. 17:1946 (Act 728 of 1979) shall be adhered to in regard to day placements made by DHH prior to July 1, 1979. Nothing in this Subpart shall be construed to limit or restrict the obligation of school systems under IDEA - Part B of this Part to provide services to voluntarily enrolled students with disabilities in approved nonpublic schools. School systems which place an exceptional student in an approved nonpublic school program must provide the approved nonpublic school whatever resources are necessary to provide the student and the student's parents all of the rights, privileges, and services established by these regulations.

2. Exceptional students placed in approved nonpublic schools by a school system remain within the jurisdiction of that school system regardless of the geographic location of that approved nonpublic school.

3. School systems remain fully and directly responsible for the complete compliance of the educational program being provided with the requirements of these regulations.

4. City/parish school system referral of an exceptional student to a state board special school is always an out of district placement unless a cooperative agreement exists with the city/parish school system; and if the student is admitted to such a school, the student is transferred to the state board special school's jurisdiction.

§452. IEP/Placement Review Procedures

A. Each school system shall ensure that each IEP/Placement review meeting is conducted at least annually in accordance with §442, §443, §444, §445, §449; the IEP is reviewed and revised if appropriate, and includes at least the following participants:

1. an officially designated representative of the school system, other than the student's teacher, who is qualified to provide, or supervise the provision of, special education. This person shall also be knowledgeable about the placement options and shall have the authority to commit school system resources to implement the IEP/Placement document;

2. the student's teacher;

3. one or both of the student's parents;

4. student, unless deemed otherwise by the parent. If the student does not attend a meeting involving transition planning, the school system shall take other steps to ensure that the student's preferences and interests are considered.

Comment: The school system, following prior notice guidelines in §504 of these regulations, is required to invite each student to participate in his or her IEP meeting if the purpose of the meeting is the consideration of transition services. For all students who are 16 years of age or older, one of the purposes of the annual meeting will be the planning of transition services, since transition services are a required component of the IEP for these students.

For a student younger than age 16, if transition services are discussed at the annual meeting that does not include the student, the school system must ensure that before a decision about transition services for the student is made, another IEP meeting is conducted for that purpose, and the student is invited to attend, again following prior notice guidelines in §504 of these regulations;

5. other individuals at the discretion of the parent(s) or school system;

6. for school systems planning transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school system shall take other steps to obtain

the participation of the other agency in the planning of any transition services.

B. One IEP/Placement review meeting must be conducted annually. More than one IEP/Placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for a IEP/Placement review meeting, the school system must respond within 10 days in writing to that request. Other IEP/Placement review meetings that must be conducted in addition to the required annual meeting are listed in Bulletin 1530.

C. School systems shall include on each IEP/Placement document all special education and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

D. School systems shall prepare a progress report related to the short-term objectives in the IEP/Placement document for each exceptional student and must provide it to the parent at the same time as report cards are provided to all students.

E. If a participating agency fails to provide agreed upon transition services contained in the IEP, the school system or public agency responsible for the student's education shall initiate a meeting, as soon as possible, for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP.

§453. Change to Less Restrictive Environment

A. During each IEP review or revision, the educational placement of the exceptional student must be changed to a less restrictive environment, unless the school system documents that the educational needs indicated on the updated IEP/Placement document indicate that a change in educational placement would cause a reduction in quality of services needed or have a potentially harmful effect on the student.

B. Significant change in educational placement is defined as moving a student from one alternative setting to another which is more restrictive or which transfers jurisdiction; such a change requires a re-evaluation. A re-evaluation is not required to precede a placement change to a less restrictive environment occurring as a result of an annual IEP/Placement document update.

§454. Approved Nonpublic Schools—Review of IEP

A. Participation of Exceptional Students in Nonpublic Schools Placed or Referred by Public School Systems

1. After an exceptional student who was referred or placed by a school system enters a participating nonpublic school, any meetings to review and revise the student's IEP/Placement document may be initiated and conducted by the participating nonpublic school or facility at the discretion of the school system.

2. If the participating nonpublic school initiates and conducts these meetings, the school system shall ensure that the parents and a representative of that school system are involved in any decision about the student's IEP/Placement document and agree to any proposed changes in the program before those changes are implemented.

B. Participation of Exceptional Students Voluntarily Enrolled in Nonpublic Schools

1. After an exceptional student enters a participating nonpublic school and receives special education and related

services from the public school system, any meetings to review or revise the student's IEP/Placement document must be initiated and conducted by the public school system.

2. The school system must ensure that a representative of the participating nonpublic school attends the IEP/Placement meeting. If the representative cannot attend, the school system shall use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls.

§455. Special School District #1 and State Board Special School - Review of IEP

If, during the review or revision of an IEP of a student in the jurisdiction of Special School District #1 or a state board special school, a change in placement in or a referral to a city/parish school system is considered, a representative of that school system, in addition to other meeting participants required by §454, must be involved in any decision about the student's IEP/Placement.

§456. IEP Declassification Placement

When a re-evaluation indicates that an exceptional student currently enrolled in special education no longer meets all the criteria in Bulletin 1508 for classification as an exceptional student, the school system shall either:

A. place the student in regular education if the student is still eligible for regular education; or

B. recommend that the student be placed in an appropriate alternative setting for up to a one-year period of special education programming. The declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services if needed.

Comment: The student will be referred to the School Building Level Committee for appropriate accommodations or modifications as a handicapped student still eligible under Section 504 of the Rehabilitation Act of 1973.

§457. Reserved

§458. IEP Interim Placement

Refer to §416.

§459. Review of Placement Resulting from Disciplinary Action

A. Definitions

1. *Suspension*—

a. in-school cessation of educational services for one day or longer; and/or

b. removal from school for not more than nine school days.

2. *Expulsion*—removal of a student from school for 10 or more consecutive days.

3. In-school alternative discipline program which includes educational services shall not be considered a suspension.

4. Re-evaluation due to disciplinary action must be specific to the referral questions and would, generally, include the same components as specified in Bulletin 1508 under Re-evaluation and should address the specific behaviors exhibited by the student.

5. *Determination*—assessing of the student's behavior as it relates or is influenced by his/her disability. This documented determination must be made by at least one

person knowledgeable about the student (e.g., a teacher) and one person knowledgeable about the disabling condition of concern (e.g., a teacher certified in the disability, a pupil appraisal staff member).

B. Prior to administering any form of discipline that may result in the cessation of the educational program of a student with disabilities, a determination (§459.A.5) must be made and documented as to whether the behavior is related to the student's disabling condition. The Special Education administrator or designee shall immediately (within one day) be notified of the determination decision regarding the behavior, and whether disciplinary action is taken.

During any suspension, removal or temporary placement of the student, the school system shall provide continued appropriate educational services and planning.

C. If the determination is made and documented that the behavior is related to the student's disability, then the student shall neither be suspended or expelled.

1. The student may remain in his/her current educational setting; or

2. The student's IEP Committee may be convened to consider modifications to the student's program/placement (i.e., additional related services, counseling, changes in his/her behavior management plan, increased time in the current Special Education program, change of class schedule, teacher, etc.).

D. If the determination is made and documented that the behavior is not related to the student's disability the student may be suspended in accordance with discipline policies for nondisabled students. The school system must notify the parents regarding the relatedness determination if it involves a change in placement. This notice shall also provide them with all procedural safeguards including the right to appeal or challenge the decision in accordance with §443 and §507 of these regulations.

E. If the determination is made that the behavior is not related to the student's disability and an expulsion is being considered, prior to the expulsion:

1. The IEP committee must be convened to:

a. familiarize the IEP committee with the determination decision;

b. review the student's IEP/Placement; and

c. plan for services to be provided to the student if he/she is to be out of school. Components of the plan must include follow procedures in §448.B.2.a-f;

2. If expulsion is recommended at the expulsion hearing:

a. a re-evaluation must be conducted;

b. the IEP committee must be convened to develop an alternative education program that shall be provided to the student during the period of expulsion following procedures in §448.B.2.a-f; and

c. the school system must notify the parents regarding the relatedness determination if it involves a change in placement. This notice shall also provide them with all procedural safeguards including the right to appeal or challenge the decision in accordance with §443 and §507 of these regulations.

F. The IEP shall be convened to review the behavior plan, the program and/or placement of a student classified as disabled within three days following:

1. nine school days in, or repetitive assignments to a structured in-school alternative discipline program;
2. the third occurrence of a suspend able infraction; or
3. cessation of educational services for nine cumulative school days due to one or more suspensions.

G. At each IEP meeting there must be a discussion of the behavioral needs of the student. This should include the following:

1. addressing any behavioral problem(s) of the student that are related to the disabling condition;
2. developing a structured program of behavior management (including goals and objectives) for dealing with the behavior; and
3. a review and determination of the effectiveness of any prior plan of behavior management.

Note: Any structured program of behavior management which is included in a student's IEP shall not be considered disciplinary action.

H. When the student poses an immediate danger to self or others or is significantly destructive to property, the student may be removed from the school immediately. A determination decision and other due process procedures must be carried out within three school days from the day of the incident.

Services to Voluntarily Enrolled

Students in Participating Nonpublic Schools

§460. Services to Exceptional Students in Nonpublic Schools

A. Participation of Exceptional Students in Nonpublic Schools Placed or Referred by Public Agencies

1. City/parish school systems placing or referring exceptional students to a nonpublic school or facility as a means of providing special education and related services must ensure that these services are provided:

- a. in conformance with an Individualized Education Program that meets the requirement of 34 CFR §300.340-300.350;
- b. at no cost to the parent;
- c. at an approved nonpublic school or facility that meets the education standards that apply to public schools and/or facilities including personnel standards; and
- d. the student has all rights of an exceptional student served by a public agency.

2. City/parish school systems and the state education agency must monitor compliance of these agencies, provide them with information on applicable standards and allow them an opportunity to submit revisions in the development of such standards.

B. Participation of Exceptional Students Voluntarily Enrolled in Nonpublic Schools. School systems must also operate programs and services assisted or carried out under funds received from the Individuals with Disabilities Act in order that exceptional students voluntarily enrolled in nonpublic schools have a genuine opportunity to participate equitably in such programs and services consistent with their number and their need. To meet this requirement, school systems must comply with 34 CFR 76.651-76.662 (EDGAR),

34 CFR 300.450-300.452 and the Louisiana Special Education State Plan.

1. If an exceptional student has a free and appropriate public education available and the parent chooses to place the student in a nonpublic school or facility, the city/parish school system is not required by this Part to pay for the student's education at the nonpublic school or facility. However, the public agency shall make services available to the student as provided under 34 C.F. 300.450-300.452.

2. The types of services in addition to student identification and evaluation service mandated at §414 of these regulations, to be provided to a student with a disability enrolled in nonpublic schools by their parents must be determined through the process of consultation with private school representatives (34 CFR Part 76) and through the IEP process. Which services will be provided and where such services are provided must be also be addressed in consultation with nonpublic school personnel.

3. Consideration must be given to the Establishment Clause of the United States Constitution, which mandates the separation of church and state, and all applicable state statutes when providing services at nonpublic schools.

§461. Training of Personnel in Participating Nonpublic Schools

The department must provide the opportunity for continuing education (inservice training) of personnel in participating nonpublic schools.

Accessibility

§462. Facility Accessibility

A. Facilities used by school systems, directly or through contractual arrangement, must be accessible to and usable by exceptional persons. Architectural barriers shall not prevent an exceptional student from being educated in the least restrictive educational environment as defined in §445 of this Part.

B. New facilities or new parts of facilities:

1. may not be approved for construction unless and until the department and the state board give express written approval on the basis of a satisfactory showing by a school system that adequate provision has been made for the necessary access of the exceptional students;
2. must be designed and constructed in a manner which results in their being readily accessible to and usable by exceptional persons;
3. must be constructed to at least meet the current level of accessibility provided by the Americans with Disabilities Act (ADA) Accessibility Guidelines for Building and Facilities.

C. Facilities which are altered for the use of school systems must be altered to the maximum extent feasible in a manner which results in the altered portion of the facility being readily accessible to and usable by exceptional persons.

§463. Program Accessibility

Program accessibility must be ensured within existing facilities.

A. Program accessibility may be accomplished through one of the following:

1. alteration of existing facilities; or