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Emergency Rules

DECLARATION OF EMERGENCY

State Board of Elementary and Secondary Education

(Editor's Note: The following emergency rules were adopted on November 20, 1975, by the State Board of Elementary and Secondary Education as an immediate response to the need for guidelines for the distribution and administration of adult Indo-Chinese refugee education funds.)

Additions to Section 5.2 of the Louisiana 1975-1976 Annual Program Plan for Adult Education

5.2 Adult Indo-Chinese Refugee Education Program

All adult Indo-Chinese refugee education funds allocated to the State of Louisiana shall be used to supplement ongoing adult education programs conducted under the provisions of the Adult Education Act and provide for the initiation, development, and/or expansion of Adult Basic Education, Adult Secondary Education, and bilingual education programs for adult Indo-Chinese refugees, sixteen years of age and older who are not currently required to be enrolled in school, offering them the opportunity to receive academic instruction with emphasis on speaking, reading, writing, computational skills, services necessary to promote literacy for the purpose of enabling them to become responsible and productive members of American society, meet requirements to receive a high school equivalency diploma, and promote the integration of Indo-Chinese refugees into American society with proper respect for the preservation of their own culture and language.

5.21 State Administration

A maximum of 7.5 percent of the total allotment to the State may be utilized for state administrative purposes by the Bureau of Adult and Community Education of the Louisiana State Department of Education and the State Board of Elementary and Secondary Education to pay additional costs incurred in the administration of the Indo-Chinese Refugees Adult Education Program.

5.22 Base Allocation to Local School Systems

A minimum of eighty percent of the total allotment for adult Indo-Chinese refugee education programs to the State shall be allocated to local public school systems through a base allocation of funds computed on the number of adult Indo-Chinese refugees, age eighteen and over, settling in a local school system, as it bears percentagewise to the total number of Indo-Chinese refugees initially resettling within the State from the relocation centers. (Allocations shall be based on figures submitted to the U.S. Commissioner of Education by the Interagency Task Force on Indo-China).

The available State funds multiplied by this percentage will give the amount available to be initially allocated to the local school board.

Example:

1. In Louisiana there was an initial estimate of 1,301 adult Indo-Chinese refugees age eighteen years and over.
2. Suppose 130 is the total number of adult Indo-Chinese refugees settling within a local parish or city school system.
3. The parish or city percent then is 1,301 divided by 130 or ten percent.
4. Suppose \$80,000 is the available State funds to be allocated to all local systems in the State.
5. The local school system's allocation then would be: \$80,000 x ten percent of \$8,000.00

It must not be assumed by any parish or city school authority that the initial allocation to a school system can automatically be increased or that expenditures made in excess of their initial allocation will be reimbursed to that system.

5.23 Supplemental Allocations to Local School Systems

All adult education Indo-Chinese refugee education funds relinquished to the state office by a local school system which does not plan to utilize its total allocation prior to the end of the

fiscal year may be reallocated to other local school systems based on the submission of a "Supplementary Plan and Request for Allocation of Funds" (Form DE 520, Exhibit I of the Louisiana 1975-76 Annual Program Plan for Adult Education under the Adult Education Act of 1966) with a letter justifying the need for additional funds from the local superintendent.

Supplementary requests for funds shall be approved by the State Board of Elementary and Secondary Education based upon recommendation of the Bureau of Adult and Community Education, Louisiana State Department of Education.

5.24 Teacher Training

A maximum of 12.5% of the total state allotment may be utilized for teacher training programs specifically designed for teachers of adult Indo-Chinese refugee education programs provided sufficient funds are available after state administration, base allocations, and supplemental allocations have been approved.

Funds may be approved and utilized for teacher training purposes in accordance with the provisions of Section 309 of the Adult Education Act and as outlined in Section 5.15 of the Louisiana 1975-76 Annual Program Plan for Adult Education.

5.25 Use of Funds by Local School Systems

5.251 Eligibility to Participate

In order for a local school system to participate in the adult Indo-Chinese refugee program it must comply with the following:

- (1) meet all requirements to participate in the Adult Education Program as stipulated in Section 1.342 of the Louisiana 1975-76 Annual Program Plan for Adult Education.
- (2) certify by letter from the local superintendent to the Bureau of Adult and Community Education that all funds will be expended solely for adult education programs and services for adult Indo-Chinese refugees.

- (3) submit to the Bureau of Adult and Community Education and local assessment of the number of adult Indo-Chinese refugees eighteen years of age and older who have resettled in the parish or city school system.

- (4) certify by letter from the local Superintendent to the Bureau that priority will be given to continuation of existing programs by those local agencies and/or organizations currently providing adult Indo-Chinese refugee education services based on local education agency evaluation of those existing programs. The local superintendent is required to contact all local agencies, private and public, which might be involved in programs for Indo-Chinese refugees.

- (5) submit to the Bureau of Adult and Community Education for approval by the State Board of Elementary and Secondary Education an intent to participate in the program by completing a "Plan and Request for an Allocation of Funds" (Form DE-520) justifying projected expenditures for the fiscal year.

5.252 Rate of Reimbursement

The rate of reimbursement to the local school system by the State Department of Education to support the adult Indo-Chinese refugee education program must be equal to the exact expenditures of the operational cost of the program each month, with the total amount of approved allocations.

Reimbursement of expenditures to the local school systems will be made monthly by the State Department based upon receipt and approval of a separate Form DE-506—"Monthly Report and Request for Reimbursement" justifying adult Indo-Chinese refugee education program expenditures from the local superintendent. Form DE-506 is included as Exhibit H of the Louisiana 1975-76 Annual Program Plan for Adult Education.

5.2521 Local Operational Expenditures

Local school systems may use funds allocated to them for instructional costs incurred in the operation of the adult

Indo-Chinese refugee education classes only.

Section 166.67, Sub-part G, Adult Indo-Chinese Refugee Education Program.

Instructional costs in the local adult Indo-Chinese refugee education program shall consist of the following:

Earl Ingram
Director

- (1) teachers' salaries
- (2) paraprofessionals' salaries used in an instructional capacity
- (3) employer's contribution to retirement and/or social security for instructional personnel
- (4) teacher travel (when required)
- (5) in-service education
- (6) instructional supplies, books, and materials

All local operational expenditures for the above eligible instructional costs of the adult Indo-Chinese refugee education program shall be made in accordance with the procedures set forth in Section 6.0 of the Louisiana 1975-76 Annual Program Plan for Adult Education.

DECLARATION OF EMERGENCY

Louisiana Health and Human Resources Administration Division of Health Office of Milk and Dairy Products

The Louisiana Health and Human Resources Administration, Division of Health, is revising the State Sanitary Code to provide for administrative hearings to an applicant upon the denial of permits under Section 5.B.4 of the State Sanitary Code and for the payment of expenses incurred in connection with permits issued under that section of the State Sanitary Code. The following is an amended version of Section 5.B.4 of the State Sanitary Code which is adopted on an emergency basis effective January 19, 1976, pursuant to R.S. 49:953B:

5.253 Records and Reports

Each local school system participating in the adult Indo-Chinese refugee education program must prepare and submit separate forms for this program to the State Department of Education for accounting expenditures and compile all program statistics each fiscal year as stipulated in Section 6.8 of the Louisiana 1975-76 Annual Program Plan for Adult Education in order to assure non-commingling of funds.

In addition, the local agency will make two copies of the identification card issued to each Indo-Chinese refugee participant keeping one of its official Adult and Community Education. The copies of these identification cards can be used to justify the total number of refugees served in the adult education program.

The Bureau of Adult and Community Education of the Louisiana State Department of Education shall be responsible for compiling all local reports into a separate composite state report to the U.S. Commissioner of Education as a part of the financial and narrative reporting requirements under the Adult Education Act and include all information requested under

5.B.4 Imported Milk and Milk Products. (1) It shall be unlawful for any person, firm, or corporation to ship milk or milk products (except Extra and Standard grades of dry milk and dry milk products) into Louisiana from without the State without first obtaining a permit from the State Health Officer. (2) All milk and milk products (except Extra and Standard grades of dry milk and dry milk products) brought into Louisiana from without the State shall be of Grade A quality. The production sources may be inspected by a duly authorized representative of the State Health Officer, or in lieu thereof, the State Health Officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced. Any denial of a permit as required in (1) above shall be made only after an administrative hearing has been held and if that hearing is requested by the applicant within fifteen days of said denial. Said hearing shall afford the applicant an opportunity to prove that its milk and milk products, raw and pasteurized, meet the requirements of the Louisiana State Sanitary Code. The Health Officer or his duly authorized representative may require a reasonable deposit in advance and full reimbursement to the State of Louisiana, Division of Health, for total costs incurred including salary, travel, per diem, expenses, or fees incurred for inspection of the milk and milk sources located outside of the State of Louisiana, whether said inspection is ordered made by Louisiana officials or by

governmental representatives of another state. (3) All dry milk and dry milk products brought into Louisiana from without the state shall meet minimum requirements for at least one of the following grade designations and shall be labeled accordingly: (a) Grade A, as defined in Section 5.K.15 of this code; (b) Extra, as defined in Section 5.K.16 of this code; (c) Standard, as defined in Section 5.K.17 of the code. Production sources and processing plants may be inspected by a duly authorized representative of the State Health Officer, or in lieu thereof, the State Health Officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced.

Copies of the emergency rule are available for public examination at the Office of the Louisiana Health and Human Resources Administration, Division of Health, Milk and Dairy Products, Room 408 Louisiana State Office Building, 325 Loyola Avenue, New Orleans, Louisiana 70112.

William H. Stewart, M.D.
Commissioner

DECLARATION OF EMERGENCY

Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission at its regular monthly meeting held at its office in New Orleans on November 18, 1975, considered and approved, as an emergency item, rules and administrative procedures for Act 811 of 1975, otherwise known as the Certificate of Exemption from Louisiana Sales and Use Taxes, approved by the Governor on August 4, 1975.

In view of the fact that many of our shrimp fishermen are in serious economic circumstances and require funds to allow them to shrimp this current season, the Commission is doing all that is possible to expedite full participation in securing the exemption certificates as provided for in the Act.

The text of the emergency rule follows:

Definitions

Act: When used in these regulations and procedures, the term "Act" refers to Act 811 of the Regular Legislative Session of 1975, creating the sales tax exemption in favor of Louisiana commercial fishermen.

Commission: The Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana,

which has been delegated the authority to issue regulations to enforce the provisions of the Act.

Louisiana Commercial Fisherman: Any Louisiana resident domiciled in the State who possesses a current commercial fishing license and is an owner-operator of a vessel principally and predominantly used for commercial fishing ventures and whose catch shall be for human consumption.

Owner-Operator: The owner of a vessel or one that is being purchased under a lease purchase arrangement who physically operates or hires an employee to operate the vessel. The rental or leasing without purchase option of a vessel shall not be construed to be included within this classification and is excluded from the provisions of this Act.

Principally and Predominantly: Any percentage of use that exceeds fifty percent.

Human Consumption: That portion of the catch that is consumed by humans directly and is the principal reason for the catch.

Application for Exemption: The official form as revised from time to time issued by Louisiana Wildlife and Fisheries Commission to any person who wishes to apply for and obtain exemption certificates provided for by the Act.

Certificate of Exemption: The official form issued by Louisiana Wildlife and Fisheries Commission without charge to a Louisiana commercial fisherman for the sales tax exemption provided by the Act for each vessel owned by the said fisherman, used by him predominantly for commercial fishing ventures.

Taxes: Louisiana Sale and Use taxes only which:

(1) apply to materials and supplies necessary for repairs to a vessel if they are purchased by a Louisiana commercial fisherman and later become a component part of the vessel;

(2) apply to materials and supplies purchased by a Louisiana commercial fisherman where such materials and supplies are loaded upon a vessel for use or consumption in the maintenance and operation thereof for commercial fishing ventures whether the said vessel is engaged in interstate, foreign, or intrastate commerce;

(3) apply to repair services performed for a vessel owned by a Louisiana commercial fisherman whether the said vessel is engaged in intrastate, interstate, or foreign commerce;

(4) apply to the purchase of diesel fuel and lubricant for a vessel owned by the Louisiana commercial fisherman.

Rules and Procedures

1. All applications for certificates of exemption may be obtained at the office of the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana, or at any of its district offices throughout the State.

2. An application so obtained shall be completed, with the applicant furnishing all the information requested, shall be signed and filed with the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana.

3. Exemption from the sales and use taxes provided by the Act as defined in these rules and procedures is available for each vessel owned by a Louisiana commercial fisherman and used in commercial fishing.

4. A separate application for each vessel is required to be filed with the Commission, and a separate certificate for exemption shall be issued for each exempted vessel.

5. Upon the receipt of the application, the Louisiana Wildlife and Fisheries Commission shall determine whether or not the applicant is eligible for a tax exemption and upon favorable determination shall issue a certificate of exemption to each qualified Louisiana commercial fisherman for each exempted vessel.

6. The Louisiana Wildlife and Fisheries Commission shall issue blank certificates prepared for the qualified Louisiana commercial fisherman to be completed by him and presented to each vendor by him as his authorization for the tax exemption.

7. Each vendor shall be notified by notation on the exemption certificates that the exemption certificates so presented to him by the qualified Louisiana commercial fisherman must be maintained at the office of the vendor in support for the exempted sales claimed by him on his Louisiana sales tax returns. No taxfree purchases may be made without the certificate of exemption.

8. The blank exemption forms shall be available at the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana, and at its district offices and will be furnished with the exemption certificates and upon request.

9. The Louisiana Wildlife and Fisheries Commission may require reasonable substantiation of the application for exemption and may refuse to issue a certificate of exemption to applicants who are determined to be unqualified. The applicants shall be so notified in writing and advised of his right to appeal to the Civil District Court for the Parish of Orleans in accordance with the provisions of the Act.

10. The Louisiana Wildlife and Fisheries Commission will maintain on file at its office at 400 Royal Street, New Orleans, Louisiana all applications for exemption filed and all certificates of exemption issued to commercial fishermen with all supporting documentation.

11. The certificates of exemption will expire concurrent with the expiration date of the holder's commercial fishing license, unless sooner revoked by law, and must be surrendered to the Louisiana Wildlife and Fisheries Commission if the holder is no longer qualified and entitled to the exemption. At the end of the exemption period, should the certificate still be valid, the holder thereof shall surrender same to the Commission for cancellation and must again apply to the Commission for the certificate of exemption in accordance with the rules and procedures herein provided.

12. There shall also be exempt from Louisiana sale and use taxes the purchase of any vessel which the Commission determines will be used principally and predominantly for commercial fishing ventures. The Louisiana commercial fisherman has the burden to demonstrate the vessel's qualification for the exemption.

13. The Commission's determination can be made either before or after the purchase. In the event the Commission makes the determination that the purchase is exempt but the taxes have been paid, the Department of Revenue of the State of Louisiana shall rebate the taxes paid by the Louisiana commercial fisherman upon his presenting to the proper authority within the Department of Revenue a certificate of exemption issued by the Commission.

14. The exclusions provided by the Act and in these rules and administrative procedures apply to sale and use taxes imposed by the State of Louisiana, and do not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority.

J. Burton Angelle, Sr.
Director

Rules

RULES

State Board of Architectural Examiners

(Editor's Note: The following rules were adopted by the State Board of Architectural Examiners on December 18, 1975, to be effective on January 20, 1976.)

Amendment to Part VII of the Rules and Regulations

- A) The Louisiana State Board of Architectural Examiners directs the administrative agency of the Board to mail a letter to each Louisiana resident architect on or about the first Friday in March of each year, stating that the Board will accept nominees for the Architectural Selection Board, as provided in Act 721 of 1975, on the following basis: Any resident architect holding a current valid Louisiana license who on or before the first Friday in April of the year in which the election is held furnishes a petition by certified mail to be received by 4:15 p.m. on that day, and verified by the administrative agency of the Board. The petition shall contain:
- 1) the signatures of ten qualified (Louisiana licensed) architects endorsing his nomination,
 - 2) name, signature, and license number of the endorsee,
 - 3) biographical statement of 150 words or less.
- B) The Louisiana State Board of Architectural Examiners shall have election ballots printed for each registered resident Louisiana architect (as of May 1 of the year in which the election is held), and the ballots shall contain the embossed seal of the State Board of Architectural Examiners. Three envelopes shall be printed; one envelope will be used to mail the ballot package and one of the two remaining envelopes will be used as the return envelope which shall contain the ballot which has been sealed within the third envelope. A place shall be printed on the return envelope for the signature and license number of the qualified voter.
- C) The ballot, containing the names of nominees, shall be mailed to resident architects the second Friday in May of the year in which the election is held, and shall include the following:
- “Since four candidates are to be chosen, vote for four nominees. If more or less than four candidates are voted for, the ballot will be voided.”
- D) Rules governing election:
- The four nominees elected will be based on plurality. No write-in candidates will be counted.
- The two candidates receiving the largest number of votes will serve a one year term beginning July 1 of the year in which the election is held; the two receiving the lesser number of votes will serve a one year term beginning January 1 of the year following the election.
- If two or more candidates are elected from the same firm, the ones with the least number of votes will be eliminated. A runoff election will be held if two or more candidates from the same firm receive the same number of votes.
- E) The official ballot shall be returned to the Louisiana State Board of Architectural Examiners, P. O. Box 44095, Capitol Station, Baton Rouge, Louisiana 70804, and shall be received by 4:15 p.m. the last Friday in May of the year in which the election is held.
- F) The Tabulation Committee shall consist of at least three members of the Architectural Licensing Board, and a representative of the administrative agency for the Board. All votes shall be tabulated on the first Friday in June in the year in which the election is held.

Alvin J. Unick, Director
Department of Occupational Standards

RULES

Department of Civil Service

(Editor's Note: The following rules were adopted by the Civil Service Commission on January 7, 1976, to be effective February 10, 1976.)

Chapter 1:

Amend and reenact Rule 1.5.1 to read as follows:

1.5.1 'Bona Fide Student' means a person enrolled in an accredited high school, college, or university in the State, or a person enrolled in a State-operated vocational-technical school, in a sufficient number of courses and classes in such institution to be classified as a full-time regular student under the criteria used by the institution in which he is enrolled; or a person enrolled in an off-campus college work-study program in a proprietary institution of higher education as defined in Section 461(b) of the Higher Education Act of 1965, as amended. A bona fide student shall not lose his status as such because of vacations during the academic year or because of his failure to attend summer school.

Chapter 1:

Enact Rule 1.25.1 to read as follows:

1.25.1 'Preference Employee' means an employee who is an ex-member of the armed forces and his or her dependents as defined in Rule 7.11.

Chapter 1:

Amend and reenact Rule 1.32 to read as follows:

1.32 'Reallocation' means a change in the allocation of a position from one class to another class wherein the duties of the position have undergone a change.

Chapter 1:

Enact Rule 1.40.1 to read as follows:

1.40.1 'Title Change' means a change in the title of the class to which a position is allocated without change in the position's duty and responsibility content.

Chapter 2:

Amend and reenact Rule 2.9(c) to read as follows:

2.9(c) To conduct investigations whenever it has reason to believe the provisions of the Civil Service Article or Rules are being violated or have been violated by any person or department; and to hold public hearings when charges

of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (k) and (1) of this Rule.

Chapter 2:

Enact Rule 2.9(k) to read as follows:

2.9(k) To issue orders withholding compensation from any person who, after investigation by public hearing, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted thereunder. Such orders may be directed to the officer having the authority to approve the payroll or assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.

Chapter 2:

Enact Rule 2.9(1) to read as follows:

2.9(1) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.

Chapter 3:

Enact Rule 3.1(p) and (q) to read as follows:

3.1(p) To develop and propose to the Commission uniform classification and pay plans and amendments thereto.

3.1(q) To develop and propose to the Commission, rules and amendments thereto governing employment conditions for employees in the Classified Service.

Chapter 5:

Enact Rule 5.7 to read as follows:

5.7 Status of Incumbents when Position is Affected by Title Change.

When a position is affected by a title change, the incumbent shall be entitled to serve therein without change in status.

Chapter 6:

Amend and reenact Rule 6.4(c) to read as follows:

6.4(c) Subject to the provisions of Subsection (a) of this Rule, the pay of an employee reentering the Classified Service, other than one being restored to duty following military service, may be fixed at a rate within the range for the new position which does not exceed the highest salary he previously earned while serving with permanent status in a classified position under other than detail to special duty, provided:

Chapter 6:

Enact Rule 6.15(d)(8) to read as follows:

6.15(d)(8) A title change.

Chapter 6:

Amend and reenact Rule 6.25(b)(1) to read as follows:

6.25(b)(1) While he is occupying a position for which the current minimum of the pay range is \$896 per month or more, unless this limitation has been removed through the application of the provisions of Rule 11.29(j).

Chapter 6:

Enact Rule 6.29(a) and (b) to read as follows:

6.29 Rate of Pay on Title Change.

- (a) When a position is changed from one class to another class, both classes of which have the same minimum rate of pay, the employee's pay shall not be changed by reason of the title change.
- (b) When a position is changed to another class having a different minimum rate of pay, the employee's pay shall be fixed according to the provisions of Rule 6.12.

Chapter 7:

Amend and reenact Rule 7.4(d) and (e) as follows:

7.4(d) An applicant who is admitted to and takes

an examination shall not be admitted to another examination for the same class of position until a period of at least four weeks has elapsed from the date he took the examination, provided, that no such applicant shall be admitted to an examination for the same class of position more than three times in any twelve-month period. The applicant's official grade shall be the one obtained on his most recent examination.

(e) Repealed, effective February 10, 1976.

Chapter 7:

Amend and reenact Rule 7.14 to read as follows:

7.14 Rating Candidate in Lower Classes than the One Applied For.

Whenever a candidate has successfully passed an examination for which he has applied which includes questions on subject matter applicable to a lower class for which he has not applied, the Director may, with the consent of the candidate and his representation that he is available for appointment in the lower class, place his name on the eligible list for the lower class with the same final rating earned by him on the examination which he successfully passed.

Chapter 8:

Amend and reenact Rule 8.8(b) to read as follows:

8.8(b) If a certified eligible indicates unavailability for appointment, or if he fails to reply to an availability inquiry within seven calendar days after mailing of notification, the appointing authority may consider his name as having been removed from the certificate.

Chapter 8:

Amend and reenact Rule 8.18(c) to read as follows:

8.18(c) Repealed, effective February 10, 1976.

Chapter 8:

Enact Rule 8.26 to read as follows:

8.26 Status of Unclassified Employees Upon Constitutional Reorganization of State Government.

When State departments and agencies are re-organized pursuant to the provisions of the Constitution of 1974:

- (a) An employee occupying a position with unclassified status and whose position is retained by the State may be continued in his position with probationary status without competitive examination provided:
 - 1. His position falls within the classified service; and
 - 2. He possesses the minimum qualification requirements established for the class to which his position has been allocated by the Director; and
 - 3. He has had at least one year of continuous service with the Department or agency involved commencing on or before January 1, 1976, and continuing until the date of the reorganization.
 - 4. He is otherwise eligible for employment in the Classified Service.
- (b) The rate of pay of an employee entering the Classified Service pursuant to Subsection (a) of this Rule shall be fixed in accordance with the provisions of Rule 6.28.
- (c) Unused annual, sick, and compensatory leave earned by and credited to an employee entering the Classified Service pursuant to Subsection (a) of this Rule shall be assumed by his acquiring department and shall be recredited to him. Thereafter, he shall earn and be credited with leave benefits as provided elsewhere in these Rules.
- (d) An employee who enters the Classified Service pursuant to the provisions of Subsection (a) of this Rule shall be amenable to the provisions of these Rules with respect to all other aspects of his service as a Classified employee of the State.

Chapter 11:

Enact Rule 11.23(j) to read as follows:

- 11.23(j) Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from

another source, he may not accept the special leave and the compensation.

Chapter 11:

Amend and reenact Rule 11.29(a) and (b) to read as follows:

- 11.29(a) Subject to the provisions of Subsections (d) and (i) of this Rule and the requirements of Federal rules, statutes, regulations, and judicial decisions, an employee serving in a position for which the current minimum rate of the range is \$896 per month or more who is required to perform overtime duty may, in the discretion of his appointing authority, be credited with compensatory leave equal to the number of extra hours he has been required to work.
- (b) Subject to the provisions of Rules 6.25(b)(3), 11.28(b), 11.29(d), 11.29(i), and 11.29(j), an employee serving in a position for which the current minimum of the pay range is less than \$896 per month who is required to perform overtime duty shall, at the option of his appointing authority, but in conformity with the provisions of the Federal rules, statutes, regulations, and judicial decisions
 - 1. Be credited by his appointing authority with compensatory leave equal to the number of extra hours he has been required to work, or
 - 2. Be compensated for the extra hours of work as authorized by Rule 6.25.

Chapter 11:

Amend and reenact Rule 11.29(j) to read as follows:

- 11.29(j) In unusual cases, and upon recommendation of the Director, the Commission may extend the application of the provisions of Subsection (b) of this Rule to one or more individual employees or to specific groups or classes of employees in specific departments who occupy positions for which the current minimum rate of the pay range is \$896 or more, and who are required to perform overtime duty; provided, that the Director's recommendation must be accompanied by the appropriate appointing authority's representation that the overtime duty involved will be required over an extended period of time; except that where the

payment of overtime is required under the provisions of Federal rules, statutes, regulations, and judicial decisions, such payment is authorized to be made by the appointing authority.

Chapter 12:

Amend and reenact Rule 12.2(a) and (c) to read as follows:

12.2(a) Any employee who is suspended without pay shall be so notified by his appointing authority on or before the effective date of the suspension. Each permanent or probationary employee so suspended shall be furnished detailed reasons therefor in writing within fifteen calendar days following the effective date of the suspension. A copy of such detailed reasons shall be furnished to the Director.

(c) An employee who has been suspended without pay may be paid for time lost if his conduct, ability, or performance is found after investigation to be such as not to warrant disciplinary or corrective action. A written report of such action shall be furnished to the Director.

Chapter 13:

Amend and reenact Rule 13.11(b) and (c) to read as follows:

13.11(b) Be signed by the appellant, or on his behalf by an attorney duly licensed to practice law in the Courts of the State of Louisiana, or on his behalf by a senior student of law designated under the provisions of Rule 13.19(b)2; and

(c) Give the name and mailing address of the appellant, and of his attorney or designated senior law student, if any and

Chapter 13:

Enact Rule 13.12(d) to read as follows:

13.12(d) No appeal shall be supplemented or amended following the expiration of the delay period stipulated by Subsection (a) hereof.

Chapter 13:

Amend and reenact Rule 13.16(a) to read as follows:

13.16(a) Subject to the provisions of Subsections (b) and (c) hereof, all appeals before the Commission or on referee shall be heard in a convenient place, accessible to the public, in the City of Baton Rouge, Louisiana, selected by the Director.

Chapter 13:

Amend and reenact Rule 13.19(m) to read as follows:

13.19(m) Subject to the provisions of Subsections (r) and (s), the charges expressed in writing by the appointing authority as cause for demotion, suspension, dismissal, or other action, shall not be accepted as prima facie true. Evidence shall not be received from an appointing authority to supplement or enlarge the charges contained in such written document. The appellant may rebut any proof offered by the appointing authority in support of the charges.

Chapter 13:

Amend and reenact Rule 13.19(r) to read as follows:

13.19(r) Subject to the provisions of Subsections (m) and (s), when a classified employee alleges that he has been discriminated against because of his political or religious beliefs, sex, or race, the facts expressed in writing by the appointing authority as cause for the demotion, suspension, dismissal, or other action, shall be accepted as prima facie true. Evidence shall not be received from an appointing authority to supplement or enlarge the facts as so expressed. The appointing authority may rebut any proof offered by the appellant employee in contradiction of the facts expressed in writing by the appointing authority. The burden of proof as to the facts shall be on the appellant and the Commission may, in its discretion, require him to open the case.

Chapter 13:

Enact Rule 13.19(s)1 and 2 to read as follows:

13.19(s) In combination appeals, where the appellant denies the verity or severity of a portion or all of the charges set forth in writing and where he alleges discrimination with respect to all or a portion of the charges:

1. As to that portion of the facts set forth in writing, the verity or severity of which is denied by the appellant, the burden of proof shall rest upon the appointing authority.
2. As to that portion of the appeal in which the appellant alleges discrimination, the burden of proof shall rest upon the appellant.

Chapter 13:

Amend and reenact Rule 13.24(a) to read as follows:

13.24(a) The proceedings of all appellate hearings before the Commission shall be recorded, but shall be transcribed only upon order of the Commission or the Director and upon payment by the person requesting the transcript of such cost as may be determined by the Director.

Chapter 13:

Amend and reenact Rule 13.33 to read as follows:

13.33 Interrogatories; Pre-Trial Discovery; Rehearing of Appeal.

- (a) Interrogatories and pre-trial discovery proceedings shall not be recognized by the Commission.
- (b) No rehearing shall be granted from a final decision of the Commission.

Chapter 14:

Amend and reenact Rule 14.1(e)4 to read as follows:

14.1(e)4 Note: Deleted effective February 10, 1976.

Chapter 16:

Amend and reenact Rule 16.3(b) to read as follows:

16.3(b) Within six months following the filing of written charges with the Director or the Commission by any person of a violation of the Article or the Rules allegedly committed by any person within the preceding one year, the

Commission shall investigate and hold a public hearing concerning such charges.

Harold E. Forbes
Director

RULES

**Board of Trustees for State
Colleges and Universities**

(Editor's Note: The following rules were adopted on December 19, 1975, to be effective on January 20, 1976.)

Part III

**Physical Plants, Building Use,
Capital Outlay, and Construction**

Section 3.1 Selection of Professional Architects, Engineers, and Landscape Architects for Public Contracts.

The Regular 1975 session of the Louisiana Legislature enacted revised statutes which created professional services selection boards for architects, engineers, and landscape architects.

Architects and engineers to be considered must be registered and licensed under the law of the State of Louisiana.

The Legislature provided for three boards as follows:

- A. The Louisiana Architects Selection Board composed of seven members—six regular members and one member from the particular user agency.
- B. The Louisiana Engineers Selection Board composed of seven members—six regular members and one member from the particular user agency.
- C. The Louisiana Landscape Architects Selection Board composed of five members—four regular members and one member from the particular user agency.

Projects which are predominantly architectural in character shall be classified as architectural projects;

likewise, projects which are predominantly engineering character shall be classified as engineering projects. Classification shall be made by the Division of Administration.

Whenever a particular project is under consideration, the president of the institution or his designated representative shall participate as a member of the professional selection board for architects, engineers, or landscape architects handling the particular project.

The participation of the user agency member shall be restricted to matters directly affecting the project of his agency, and he shall be entitled to vote on all matters affecting the project of his agency.

Section 3.2 Fees for Bond Attorneys

If bond attorneys are employed by the Board, fees shall be governed by provisions of Act 619 of 1954 with the concurrence of the State Attorney General.

Section 3.3 Limits of Project Cost and Project Scope

A. Total Construction Budget:

The total construction budget as indicated to the designer by the owner shall include the scope of work for which the designer is responsible, including the design fee. Any contingency fund noted shall be reserved at the time of award of construction contracts.

B. Cost Limitations:

The designer shall conform his plans to a design for which the construction cost, together with the addition of design fees, shall not exceed the total construction budget.

C. Fees for Architects and Engineers:

Fees for professional services shall be computed prior to the signing of the contract between owner and designer. Computation of the base fee, reimbursable expenses, and charges for any additional services shall be in accordance with the latest edition of the Procedure Manual for Capital Improvement Projects, for Planning, Design, and Construction issued by the Division of Administration.

D. Payment to the Designer:

Colleges and universities shall make provision to pay architects and/or engineers from funds available and authorized for contractual purposes upon satisfactory completion of the work as hereinafter indicated:

1. Schematic Design, up to fifteen percent
2. Design Development, up to thirty percent
3. Construction Documents, up to seventy percent
4. Bidding and Contracts, up to seventy-five percent
5. Construction Contract Administration, up to one hundred percent

E. Certificates of Payment:

Based on such observation at the site and on the contractor's application for payment, the designer (architect/engineer) shall determine the amount owed the contractor and shall issue certificates of payment in such amount. The designer shall submit his certificate and submit the requests to the owner in triplicate for payment, all in accordance with the aforementioned procedure manual of the Division of Administration.

Section 3.4 Contracts

- A. Standard forms approved by the Office of the Attorney General shall be used by the Board in connection with architectural and engineering contractual services.
- B. The Board shall not consider any plans submitted by an architect/engineer for any building or construction project under its control until a signed and confirmed contract is on file.
- C. Before preliminary or final construction plans are presented to the Board, the plans shall have been reviewed by the officials of the institution affected, Facilities Planning and Control, Division of Administration, and the Physical Plant Committee of the Board.

Section 3.5 Bids and Specifications, Bid Forms

The estimated cost of the items should be placed on the bid form when submitted to the Board for approval and permission to obtain bids.

Section 3.6 Procedure for Bidding

- A. The president and business manager of the university or college together with the technical representative of the Board are authorized to receive bids. The advertising for bids and the opening of bids shall be in strict accordance with State law pertaining to this procedure. The bids shall be tabulated and submitted to the

Board for selection of the low bidder meeting specifications and for the awarding of the contract.

- B. All bid openings on general construction contracts shall be held in an administrative office on the campuses of the various colleges and universities under the jurisdiction of the Board or in Baton Rouge at a designated office in the State complex.
- C. All architects/engineers who are engaged to perform work for the Board shall be instructed that, for the purpose of advertising for bids, a base bid category with approved sequential alternates shall be the sole figure requested of bidding contractors.
- D. Bid forms with estimated costs and detailed specifications on furniture and equipment to be purchased from funds under the jurisdiction of the Board shall have prior Board approval before bids are let. The Board shall give authority and permission to advertise for and to receive bids.
- E. After bids have been duly received, the college or university shall present a bid tabulation sheet, signed and certified, to the Board for approval of the low bidder meeting specifications.
- F. The approval of specifications for the purchase of furniture and equipment applies only to those items that have to be approved by the Board.

Section 3.7 Facilities, Use of

When facilities of the institution are used for activities other than those of the institution, organizations concerned shall be required to reimburse the school for all costs incurred in connection with the affair, and they shall be further required to carry sufficient public liability insurance to protect all parties concerned, including the institution.

Section 3.8 Naming of Buildings

- A. Recommendations regarding the naming of buildings on the campuses shall be made by the president of the institution and received and approved by the Board.
- B. A standard plaque designed by the Board may

be placed on self-liquidating buildings to be built on the campuses of colleges and universities under the supervision of the Board.

- C. No plaques shall be installed or designed for any college or university building until submitted to the Board.

Section 3.9 Projects

- A. Construction projects shall not be accepted by the Board until final acceptance is recommended by the architect/engineer, the president of the institution, Facility Planning and Control, Division of Administration, and the Physical Plant Committee of the Board.

Section 3.10 Plans and Specifications

- A. Plans for construction of buildings at the institutions as well as all other matters pertaining to the buildings and grounds, should first be submitted to the Physical Plant Committee for examination and approval. The Board will act only upon the recommendation of the Physical Plant Committee.
- B. All master plans for the colleges and universities shall be approved by the president of the institution before they are submitted to the Physical Plant Committee for consideration.
- C. When applications for construction of all buildings at the institutions of higher education are presented to the Board, they must be accompanied by all pertinent data on existing facilities and occupancy. Requests for construction of new dormitories shall be accompanied by a special report with reference to the distance the dormitory students live from a dormitory.
- D. All construction projects, additions, change orders, or any other additions or reductions in the scope of the contract shall have prior approval of the Board.

Section 3.11 Construction Under Division of Administration

When the final plans and specifications of the building or construction project under the jurisdiction of the Board have been approved by the Facilities Planning and Control Section, Division of Administration for location on a site designated by the Board, the Division of Administration shall be requested to proceed with the project with the

understanding that the president of the institution and the technical representative of the Board shall collaborate with the Facilities Planning and Control Section, Division of Administration.

Section 3.12 Easements, Servitudes, and Rights-of-Way

All requests for easements, servitudes, and rights-of-way on college or university campuses or properties under the jurisdiction of the Board shall be submitted fully documented by the president of the institution to the Physical Plant Committee for approval by the Board, subject to approval of the State Attorney General.

Section 3.13 Options

Any option of the Board on land on which the date of expiration has passed shall be cancelled and any such matter shall be brought to the immediate attention of the Board.

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Part VI

Financial and Leave Policies and Procedures

Section 6.1 Reports

- A. All colleges and universities under the jurisdiction of the Board shall submit an annual report of all funds from all sources by August 1 each year in order that the Board may see an overall picture of their financial situations. Such reports shall be submitted on forms prescribed by the Board staff as approved by the Board.
- B. All colleges and universities under the jurisdiction of the Board shall submit to the Board office one copy of the monthly report of operations required by the State Division of Administration.

Section 6.2 Budgets

- A. Budgetary requests by each college and university for the ensuing fiscal year for presentation to the Governor and the Legislature shall be presented to the Board for approval prior to presentation to the Governor and the Legislature. After appropriations have been made by the Legislature and approved by the Governor, each college and university shall submit a revised budget to the Board for approval, based

on the amounts appropriated and changes resulting from legislative action.

- B. Budget changes or adjustments within an approved budget involving transfers between principal budget categories, including receipts as well as expenditures, shall be submitted to the Board for approval prior to submission to any other State agency.
- C. Any fixed financial relations between students and a college or university which affect the budget shall have approval of the Board.
- D. All capital outlay budget requests for presentation to the Governor and the Legislature shall be submitted to the Board for approval prior to presentation to the Governor and the Legislature.

Section 6.3 Federal Funds

- A. All colleges and universities are authorized to make application for Federal funds from any Federal agency for educational purposes, construction of physical facilities, student aid or other purpose which will assist the colleges and universities in carrying out their functions and responsibilities.
- B. Each college and university making application for Federal grants shall submit a summary of the application to the Board office; when a grant award is received, a copy shall be submitted to the Board office.
- C. Colleges and universities are authorized to employ an independent firm of certified public accountants to audit Federal programs upon specific approval of the action by the Board. Such action shall be taken when the Federal guidelines for the audit of such programs necessitate it; payment for such audits shall be the responsibility of the college or university employing the CPA firm.

Section 6.4 Compliance with Federal and State Laws

It shall be the policy of the Board that all colleges and universities under its control shall comply with all Federal and State laws and that there shall be no discrimination on the grounds of race, color, or national origin in providing individual services, financial aid, or other benefits; or in the use of lands, buildings, equipment, or other facilities.

Section 6.5 Student Residence Regulations

Because residence classification is an important part of fee determination, admission regulations, and other policies of the colleges and universities, it is important that colleges and universities have fair and equitable regulations which can be administered consistently and still respect the interests of both the students and the taxpayers of Louisiana. It is the responsibility of the student to provide the colleges and universities with such evidence as deemed necessary to establish his residence status.

The residence status of an applicant or student shall be determined in accordance with Board regulations and shall be based upon evidence provided in the application for admission and related documents. Residence status shall be determined by the office of the registrar and/or admissions officer after the completed application for admission has been submitted. The regulations shall be based primarily on the location of the home and the place of employment. Residence status may not be acquired by an applicant or student while residing in Louisiana for the primary purpose of attending school. Residence status is not determined for students registered for three semester hours or less.

A. An applicant living with his parents shall be classified as a resident if the parents have established a bona fide residence in Louisiana if he actually resides and is employed full time in the State. A parent who is unable to be employed or who is a housewife may be considered to have established a residence in Louisiana if there is convincing evidence that the person continuously resides in Louisiana. If only one parent qualifies as a resident of Louisiana, the student shall be classified as a resident. An individual who resides in Louisiana and is employed full time in another state, or an individual who resides in another state and is employed full time in Louisiana may be classified as a resident. In such case, appropriate documentary evidence shall be presented.

B. An applicant who resides in another state may be considered a resident if a deceased parent qualified under these regulations as a resident of Louisiana at the time of his death. Such an applicant who has resided and been employed full time in another state for two years or longer cannot qualify as a resident under this provision.

- C. A student residing with his parents who enrolls as a nonresident shall be classified as a resident if his parents move to Louisiana and acquire residence as defined in these regulations.
- D. A person may be classified as a resident of Louisiana at the end of twelve consecutive months of residence if he has been employed full time in Louisiana and if during that period he has not been registered in an educational institution for more than six semester hours or its equivalent in any semester. A person who is unable to be employed and who has not been registered in any educational institution for more than six semester hours or its equivalent in any semester may acquire residence in Louisiana if there is convincing evidence that he continuously resided in Louisiana for twelve consecutive months immediately preceding registration.
- E. A student who is married to a Louisiana resident may acquire the residence status of his or her spouse.
- F. A person who resides in Louisiana for at least two years, exclusive of military service, and then moves to another state or foreign country shall retain the right to enroll himself or any of his dependents as a resident for a period equal to the number of years he resided in Louisiana, but the right shall expire upon the person's residing for a period of five years in another state or foreign country.
- G. A member of the armed forces currently stationed in Louisiana and his dependents shall be classified as Louisiana residents. A serviceman who was stationed in Louisiana immediately prior to his release from active duty may enroll himself or his dependents as residents during a period not to exceed six months after the date of release provided that his term of active duty shall have been no less than twelve consecutive months.
- H. A member of the armed forces who was a resident of Louisiana immediately prior to entering the armed forces shall retain the right for himself or any of his dependents to be classified as a resident as long as he is in the armed forces and for a five-year period after leaving the armed forces.
- I. A resident of Louisiana shall not lose the right to be classified as a resident during periods of employment in a foreign country.

J. An alien who has been lawfully admitted to the United States for permanent residence as an immigrant (proof of such status shall be possession of his Form 1-151-Alien Registration Receipt Card) and who has established residence under any of the foregoing provisions shall be declared a resident of the State.

K. An applicant shall be declared a resident if either parent is a graduate of any state institution of higher learning in Louisiana.

The president of each institution shall be authorized to appoint a Residence Regulations Appeals Committee. Any student classified as a nonresident may appeal his classification to this committee.

Section 6.6 Student Fees

A. Application Fee

An application fee of \$5.00 for United States students and \$15.00 for foreign students (non-refundable) shall be assessed each person making application for admission or re-admission to a college or university under the jurisdiction of the Board.

B. Activity, Registration, and Tuition Fees

1. Activity Fee—an activity fee of \$10 per semester shall be assessed each student.

2. Registration—a registration fee of \$40 per semester shall be assessed each student.

3. Tuition Fee—a tuition fee of \$5 per semester credit hour shall be assessed each student.

4. Non-Resident Fee—a non-resident fee of \$25 per credit hour shall be assessed each student classified as non-resident under the regulations of the Board. This fee shall be in addition to Items B.1., B.2., and B.3.

5. Off-Campus Fees

a. Fees for extension courses and other off-campus offerings (except contractual arrangements) shall be assessed in the same manner as for on-campus offerings. (B.1., B.2., B.3., and B.4.)

b. Fees for courses offered under contractual arrangements may not be for a lesser consideration than B.5.a.

6. Late Registration Fee—an additional fee of \$15 will be charged any student registering after the close of the regular registration period.

7. Refund Policy—each university shall develop a refund policy for registration fees appropriate to the individual campus.

C. Drop, Add, and Change Fees

A transaction fee of \$5 for a drop, add, or change of section may be assessed during the drop-add period when the transaction is for the convenience of the student. All transactions for the convenience of the university and beyond the control of the student shall be without charge.

D. Building Use Fee

All colleges and universities under the Board are authorized to continue to levy facility use fees as included in the bond agreements outstanding and formerly approved by the State Board of Education. The building use fee is at the rate of \$10 per semester. The revenues derived from these fees shall be dedicated to the construction and/or renovation of academic facilities.

E. Vehicle Registration Fee

Colleges and universities under the Board are authorized to assess vehicle registration fees up to \$5 per semester, not to exceed \$12.50 per year, unless approval is granted by the Board of a different plan. The income from these registrations is to be used for construction, repair, maintenance, and operation of parking facilities including streets, roadways, walks, buildings, and walkways leading into such parking facilities.

F. Self-Assessment Fees

All self-assessment fee proposals voted by students upon themselves and their successors shall be submitted by the President with his recommendations to the Board for final approval. Each referendum shall state a specific term of assessment.

G. Room Deposit

A \$25 room deposit will be charged each student reserving a dormitory room. This deposit will be forfeited if the student has not canceled his reservation by forty-five days prior to the announced opening time of dormitories for the term for which he has applied.

H. Waiver of Non-Resident (Out-of-State) Fees

Each college and university under the Board is authorized to identify and award non-resident fee waiver scholarships to academically talented students among those out-of-state applicants to the university.

The criteria to be met by the students are:

Eligibility is limited to beginning students (freshmen and transfers from other colleges and universities) who meet four of the following criteria:

- a. Minimum of 3.0 grade point average (college or seven semesters of high school).
- b. Academic rank in the upper ten percent of the class.
- c. ACT minimum composite score of 23 or equivalent on other nationally recognized tests.
- d. Leadership in extracurricular activities.
- e. Satisfactory evaluation resulting from a personal interview.

Certification of the list of students meeting these criteria annually shall be made to the Executive Director of the Board for submission to the Board.

I. Special Purpose Fees

Special purpose fees may be assessed by each college or university as appropriate upon review and approval by the Board.

Section 6.7 Leave Record Establishment and Regulations for All Unclassified, Non-Civil Service Employees

The rules and policies set forth below shall be applicable to all unclassified, non-civil service employees under the jurisdiction of the Board. It is the policy of the Board that unclassified employees deserve equal treatment with other classes of State employees, and these rules and policies are promulgated under that concept.

Section 6.8 Annual Leave

A. Workweeks and Attendance Records for Unclassified Employees

1. For purposes of leave, appointing authorities shall establish workweeks of forty hours per week for full-time employees. The purpose of establishing the forty-hour week is merely to provide appointing au-

thorities a system of accounting for and the taking of sick leave. Nothing contained in this policy shall be construed as requiring academic teaching personnel, whether employed on a twelve-month basis or on a basis other than twelve months, to be physically present for the period of forty hours per week in their classrooms, laboratories, offices, or any other place where their employment duties are performed.

2. For purposes of leave, appointing authorities shall establish for part-time employees workweeks proportionate to the provisions of the previous paragraph.
3. Daily attendance and leave records shall be maintained for all unclassified employees. The Board may, in the exercise of its discretion, adopt an attendance form designed merely to indicate that academic teaching personnel were either present or absent from their usual duty posts during the usual working day for such personnel. These records shall be signed by the employee and his supervisor and reported at least monthly to the appropriate office at the end of each regular pay period.

4. Definitions

- a. Annual leave is leave with pay granted an employee for the purpose of rehabilitation, restoration, maintenance of work efficiency, or attention to other personal concerns.
- b. Faculty leave is leave granted to faculty members employed on the nine-month (academic year) basis in lieu of annual leave and is comprised of the days between terms and at holiday periods when students are not in classes. This special form of leave shall be taken as it is earned.

B. Earning of Annual Leave by Unclassified Employees on the Twelve-Month Basis

1. Annual leave shall be earned by each eligible employee who has a regular tour of duty.
2. The earning of annual leave shall be based on the equivalent of years of full-time State service and shall be creditable at the end of